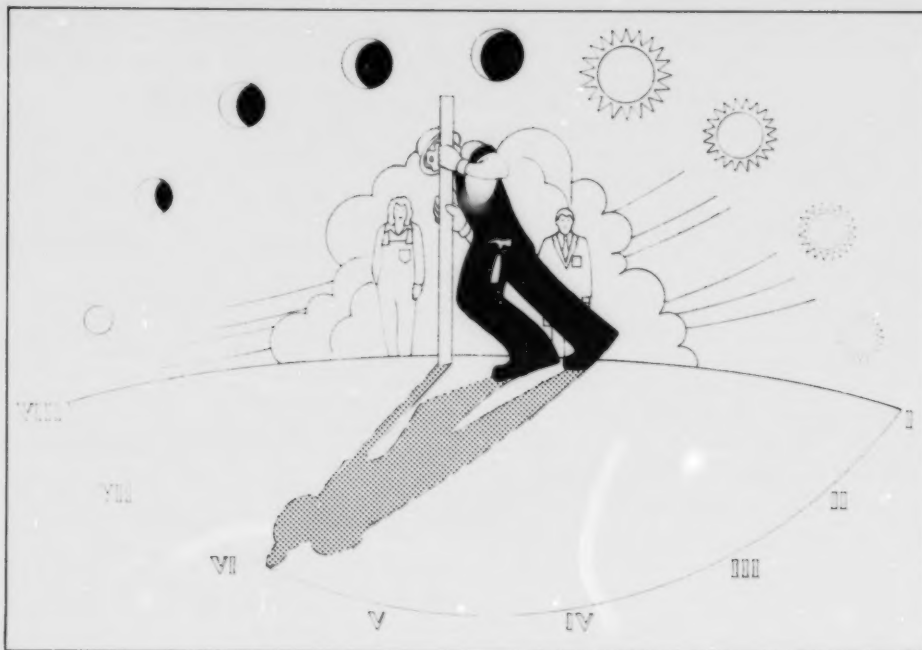




Research Report

Prepared for the Ontario Task Force on Hours of Work and Overtime



Farm Workers and Worktime Provisions of Ontario's Employment Standards Act

FARM WORKERS AND WORKTIME
PROVISIONS OF ONTARIO'S
EMPLOYMENT STANDARDS ACT

by

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(A Report to the Ontario Task Force
on Hours of Work and Overtime)

The views expressed are those of the author and need not reflect the position of the Ontario Task Force on Hours of Work and Overtime.

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Abstract: Farm Workers and Worktime Provisions of Ontario's Employment Standards' Act

The paper evaluates the need for excluding most hired farm workers from the maximum hours of work, overtime pay, vacation with pay, and paid holidays standards of Ontario's Employment Standards Act. Although statistical and other published sources are used, the paper relies heavily on information collected from twenty-one farmers and agricultural officials.

The various constraints that shape worktime practices on farms present real difficulty for controlling hours in some types of farming and are relatively unimportant in others. This suggests that imposition of uniform standards on worktime practices would result in unequal burdens on different parts of the industry. Also, the two main classes of hired farm workers, year round and seasonal, have different roles in and commitments to the industry.

Based on the work requirements and the difficulties of staffing a low-wage industry, worktime practices appear to be farm specific, that is, farmers work out the combination of staff size and worktime that will get the job done. In competitive labour markets they find they must take note of the practices in other industries. For the seasonal worker hours are likely to be long and few if any benefits other than straight time wages are available. The discussion of the exceptions indicates where practices differ from these general approaches. Information on other jurisdictions shows that European farm workers have much more favourable work time arrangements than those that prevail in North America, especially in the United States. This situation gives some urgency to the farm industry's concern that competition from the United States limits the extent to which working conditions on farms in Ontario can be improved.

CONTENTS

	Page
INTRODUCTION.....	1
Definitions.....	2
Sources.....	7
FACTORS THAT SHAPE FARM HOURS.....	8
Farm Type, Size, Organization and Technology....	11
Type.....	12
Size and Organization.....	13
Production Techniques.....	16
Cost and Prices.....	17
HIRED FARM WORKERS.....	17
Hired and Other Farm Workers.....	18
Duration of Employment.....	19
Where Employed.....	21
Attracting and Holding Workers.....	28
HOURS, OVERTIME AND PAID TIME OFF.....	37
Average Hours of Paid Workers.....	37
Farm or Product Specific Practices.....	38
Attitudes to Long Hours.....	42
THE EXEMPTION.....	46
Development.....	47
Rationale.....	49
OTHER JURISDICTIONS.....	51
The Provinces.....	51
United States.....	52
England and Wales.....	57
France.....	59
Federal Republic of Germany.....	60
Sweden.....	61
The European Community.....	62
CONCLUSION.....	63
Means of Control.....	65
General Approach.....	67
SUMMARY.....	68
NOTES.....	74
REFERENCES.....	76

FARM WORKERS AND WORKTIME PROVISIONS OF ONTARIO'S EMPLOYMENT STANDARDS ACT

INTRODUCTION

Ontario's Employment Standards Act is intended to protect workers who have little bargaining power from having to accept excessively low wages, long hours and other unsatisfactory conditions of employment. Nevertheless, hired farm workers, many of whom have limited skills and other work related disadvantages, are generally excluded from the protection of the standards. The exclusion arises, in part, from the explicit exemption of farm workers from coverage and, in part, from eligibility conditions that restrict access to some standards to long service workers or those employed in larger groups than are found in Ontario farms. This contradiction between the purpose and application of the Act is the source of concern about unfair treatment of people who work for wages in agriculture relative to both those who enjoy its protection and those able to negotiate more favourable terms of employment.

In this paper the focus of attention is on employment standards that directly influence time worked. Four of these are found in the Employment Standards Act: maximum daily and weekly hours of work; premium pay for overtime hours; observance and payment of public holidays; and paid vacations. Hired farm workers are generally exempt from four worktime related standards. However, in some circumstances, as explained subsequently, the holiday and vacation provisions are available to farm workers.

The objective of the paper is to identify and evaluate the different elements of the rationale for denying farm employees coverage under worktime standards. No systematic

analysis is available that explains why they have never enjoyed this protection. During the past four decades, production processes, staffing practices, farm organization and other aspects of the industry have changed radically and raised questions about the relevance of employee protection designed in 1945. These issues are identified and assessed in discussions of the characteristics of agricultural activities that influence time worked, the farm work force, hours and other worktime practices, and the scope of the exemptions from the standards. Worker protection legislation in other jurisdictions and its application to agriculture will be compared to the Ontario position. Findings will be derived about the need for worktime controls on farms and the consequences of imposing them.

Ontario agriculture survives through using many different employment arrangements compatible with its production needs. These arrangements are in a constant state of change generated by factors such as new production technologies, more competitive markets, and turnover in the labour supply. This report illustrates some of the considerations that will arise in extending different forms of worktime controls to the industry and it suggests approaches or processes that will permit the issues raised to be handled constructively.

Definitions

Agriculture is commonly defined as cultivating the soil, growing crops and raising livestock. A more precise definition is supplied in the 1980 "Standard Industrial Classification" published by Statistics Canada. It separates agricultural activities into two major groups, Agricultural Industries and Services Incidental to Agriculture, and specifies the components of each in extensive detail. Most hired agricultural workers of interest in this paper are engaged in activities assigned to Agricultural Industries but some are employed in Services. Unfortunately these workers are not distinguished in any statistical series

available but they are likely to be covered by Labour Force Survey estimates of agricultural employment.

Agricultural Industries are composed of farms, ranches and horticultural establishments that are assigned in the Classification to farm enterprises or types as shown in Table 1. The different types indicate the range of farming activities carried on in the Province and the data on numbers of farms and value of products sold, although somewhat dated, suggest their relative importance.

In using Table 1 it should be kept in mind that farms are assigned to an agricultural enterprise or type on the basis of more than 50 per cent of their sales being derived from the type of farming named. Many dairy farms, for example, have extensive field crop, hog or other activities and the same is true for many of the other categories. As a consequence of the classification procedure used, Table 1 is a useful guide to the range of farming activity in Ontario but it understates the extent of mixed farming and does not show the total numbers of farms producing a given product or the total value of that product.

Table 2 classifies farms on the basis of how they are organized. The data, which reflect the situation in 1980, show the continuing dominance of family controlled farms both in terms of numbers and total value of sales. The relatively small role of non-family corporate farms seems to indicate the success of Ontario's policy of maintaining family farms as the basic units of agricultural production. Whether or not it is a good indicator of the viability of the family farm is not so clear. However, it may be an important factor in considering to what degree hours of work in the industry should be controlled.

Services Incidental to Agriculture are of interest here mainly because some of their employees do farm work. This is

Table 1
Number of Farms (1981) and Value of Product Sales (1980)
By Farm Type

Type of Farm	Farms		Sales in	
	Number	%	Millions of Dollars	%
<u>Livestock</u>				
Dairy	13,277	16.1	983.1	21.0
Cattle	23,774	28.8	1,089.5	23.2
Hogs	5,385	6.5	398.3	8.5
Poultry	2,744	3.6	420.1	9.0
Sheep and Goats	1,479	1.8	9.2	0.2
Horses	1,128	1.4	35.0	0.8
Furs	211	0.2	20.1	0.4
Other Animal Specialties	562	0.7	7.0	0.1
Cattle and Hogs	1,524	1.8	95.7	2.0
Mixed Livestock	1,393	1.6	55.5	1.2
Sub-total	51,477	62.4	3,113.4	66.4
<u>Field Crops</u>				
Wheat	981	1.2	9.9	0.2
Small Grains	6,517	7.9	255.7	5.5
Oilseeds	3,431	4.3	111.2	2.4
Corn	5,689	6.9	314.4	6.7
Peas and Beans	204	0.2	6.3	0.1
Fodder	1,724	2.1	11.3	0.2
Tobacco	2,258	2.7	276.8	5.9
Potatoes	272	0.3	31.7	0.8
Other Field Crops	123	0.1	7.2	0.1
Mixed Field Crops	185	0.2	16.0	0.3
Sub-total	21,384	25.9	1,040.5	22.2

Table 1 concluded

Type of Farm	Farms		Sales in	
	Number	%	Millions of Dollars	%
<u>Fruit, Vegetables and Horticulture</u>				
Fruit	3,213	3.9	104.8	2.2
Vegetables	2,328	2.8	120.3	2.6
Fruit and Vegetables	144	0.2	5.0	0.1
Mushrooms	69	0.1	36.0	0.8
Greenhouses	1,413	1.7	147.3	3.1
Nursery	545	0.7	60.2	1.3
Horticultural Specialties	196	0.2	0.7	0.0
Sub-total	7,908	9.6	474.0	10.1
Other	1,679	2.1	63.5	1.3
TOTAL	82,448	100.0	4,691.4	100.0

Source: Statistics Canada, Census of Agriculture, 1981.

Table 2
Number of Farms and Value of Product Sales (1980)
Classified by Type of Farm Organization

Type of Organization	Number	Sales		Average Sales (Thousands of Dollars)
		Millions of Dollars	% of Total	
Individual Proprietorship	68,410	2,815	60.0	41
Partnership - Verbal	5,629	373	7.9	66
Partnership - Written	5,191	523	11.1	101
Corporation - Family	2,690	781	16.6	290
Corporation - Other	428	192	4.1	448
Other	100	7	0.1	67
TOTAL	82,448	4,692	100.0	57

Source: Statistics Canada, Census of Agriculture, 1981.

particularly important with respect to services to livestock and crops in which such basic work as breeding, egg grading, planting, spraying and harvesting may be done by specialists who come onto a farm to perform tasks that otherwise would be done by farmers or hired workers. As indicated above, it is difficult to be certain about the coverage of the service workers in agricultural employment statistics, but it seems likely that in the course of their work they move in and out of the protection of the Employment Standards Act.

Despite the uncertainties mentioned, farm and agricultural employment of hired workers are substantially the same and the two terms are used interchangeably in what follows. Also, the terms enterprise and type of farm are both used to refer to the categories of farms listed in Table 1. The word industry is used to refer to agriculture or farming as a whole.

Sources

Evaluation of the exemption of farm workers from Ontario's worktime employment standards require more and better information than that which forms the basis of this paper. The principal deficiencies are in data on the staffing and work practices of different types of farms and between farms of different sizes, production techniques, and organization within a farm type. The material used has been obtained from briefs and discussions made available to the Task Force on Health and Safety in Agriculture, which reported in 1985, and 21 interviews with farmers and government and farm association officials held during late February and March, 1987. Only a very limited amount of published material was found that discusses work on Ontario farms. In addition, data generated mainly by Statistics Canada are used to indicate the general composition of the farm work force and where and when they are employed. Contacts made in other jurisdictions, and documentation they provided, was used to provide information on hours of work. Finally, officers of the Employment Standards Branch assisted by providing

information on the exemptions and commenting on sections of this report.

FACTORS THAT SHAPE FARM HOURS

The hours of work in an industry reflect the characteristics of its products, processes and markets. In agriculture the constraints imposed by such characteristics appear to be stronger and to result in greater diversity of worktime practices than in any other areas of employment. As a consequence, the movement during the past century to reduce hours of work generated less response on farms than elsewhere. The nature of the constraints that have permitted farm hours to differ from those widely established in manufacturing, mining, services and other industries will be discussed in this section of the paper.

Two sets of factors stand out as especially important in shaping hours in agriculture and the anxiety with which farmers view legislated control of such hours. The more widely recognized of the two has to do with the biological nature of farm products and processes and the climatic environment in which production occurs. These factors continually interact to govern the conduct of farm work by defining periods when it may be done and completion deadlines. Frequently they reinforce each other in creating urgency. The second set of influences has to do with the size, organization and production techniques of farming units. They too interact to determine time worked but their impacts are less predictable and less easily observed than those of biological processes and climate. Other considerations, for example, the strenuous nature of some farm work, also influence hours but not in ways that clearly distinguish farming from other areas of employment.

Biological and Environmental Factors

Efficient farming entails taking advantage of the growth and other natural schedules of plants and animals. In some instances this may be accomplished within an 8-hour day and

6-day week but where production relies on biological processes there are exceptions to such a tidy pattern. Some work requirements recur regularly but simply do not fit within the limits of what has come to be regarded as normal hours. Milking dairy cows and harvesting continuously bearing vegetable and tobacco crops are cases in point. Other biological events, for example, the birth of animals and maturity of fruit, are roughly predictable but demand immediate attention regardless of when they occur. In some instances, this attention is needed for extended periods. Still other farm work requirements are completely random and are illustrated by the out-break of disease in sheep or cattle or of a scab infection of an apple crop. To avoid severe losses, protective action may be required immediately and continued until the problem is controlled.

These examples of incompatibility between fixed hours of work and the biological processes of plants and animals indicate the need for flexibility both in when farm work is done and how long it continues. They also suggest that the need is inherent in biological production processes but perhaps slightly more detailed illustrations will demonstrate the importance of that point.

- o Cows tend to thrive on regularity of handling practices involving matters such as composition of the work crew, feed content, exercise, and feeding and milking periods. That is, they have natural schedules that if followed result in maximum production. As a consequence it is common practice among Ontario dairy farmers to milk their cows twice a day. To obtain maximum output this is done at 12-hour intervals because experience shows that if the interval is extended beyond that duration, total production declines.
- o To obtain the best possible food value from forage, it must be cut when its protein content is at its peak. This level is maintained for only a couple of days and the volume of work to be done at that time is typically greater than the permanent farm staff can handle without working very long hours. Failure to complete the harvest promptly causes a loss in food value and consequently in beef and milk production.

- o To be marketed as top grade, and therefore at top price, mushrooms must be mature, but the veil that stretches between the stem and bottom inside edge of the cap must not be broken. The period for harvesting to meet these conditions may be as little as 8 hours. Since mushrooms are grown under controlled conditions, the rate at which they mature may be influenced. That is, biological schedules may be delayed or speeded up for some products, giving flexibility in when the work must be done.

In summary, the biological aspects of farming make it necessary to have a monitoring as well as a production element in the work done. Monitoring means making frequent observations and taking early corrective action when necessary. Production work is likely to vary in intensity and duration with the task in hand and there may be limited capacity to alter its cycles to suit human worktime preferences.

In Ontario, climate has a much greater influence on hours of work in crop than in livestock production. In many types of animal farming the husbandry techniques have substantially removed the seasons and the weather from exerting a direct effect on hours worked. The same is not the case where plants are grown out-of-doors, by far the most common practice.

Seasonal cycles tend to become more critical to crop production as it is moved away from the equator. That is, the periods in which it is necessary to complete planting, growing and harvesting are likely to be shorter in Ontario than farther south. At the same time, the short term weather within the planting and other periods may be more variable and more severe than in areas of moderate climate. There is ample evidence that deviation of short-term weather from the anticipated seasonal norms is a factor of importance in crop production in Ontario. For example, wet conditions seriously impeded the tomato harvest and caused heavy loss to some farmers in 1986. For the same reason bean production fell

far below planned levels in 1977 and in 1986 when 55 per cent of the crop was lost. A year rarely goes by without excessively wet or dry weather, frost or other weather conditions being a serious concern in a particular area or with respect to a particular crop.

Despite the uncertainty, one farmer noted that there are "windows of opportunity" in the seasonal and weather patterns in which it is necessary to carry out the work of growing crops. For example, in his area there are about ten days each spring when grain and fodder crops must be planted to achieve good harvests. If some of these days are too wet for him to go on the land, pressures build to work long hours on the other days. This sort of situation arises from time to time in connection with ploughing, planting and harvesting and perhaps other tasks and creates a sense of constantly having to meet critical deadlines. In response, farmers take urgent action when a work opportunity occurs.

The urgency arises from many weather and seasonally related situations. To sell well and at a good price apples need to be attractively coloured. The conditions that bring this about are a series of sunny days alternating with cool nights. However, some varieties fall easily when ripe, and cool nights can slip into damaging frost causing loss of output. The combination of all these variables results in strenuous effort to harvest promptly the apples that are ready and this influences worktime decisions.

The above illustration demonstrates the interaction of biological processes and the weather to determine when farm work should be done. To obtain good quality and high levels of output, farmers must respond with timely action. There is a natural concern that constraints on working hours may make "timeliness" more difficult and expensive.

Farm Type, Size, Organization and Technology

Although they may be easier to control, factors other than biology and climate play a part in shaping hours of work on

farms. The type of farming done is particularly important and is at least partially a management decision. Farm size and organization are also relevant factors and almost every farmer interviewed added low product prices to the list.

Type:

Choices made about the type of farming shape daily, weekly and annual hours. Those types commonly practiced in Ontario were shown in Table 1. They suggest a wide variety of products and processes and enough has already been said to indicate that each one carries with it some distinct worktime requirements. Specialization in a single crop such as tobacco or grapes results in major variations in the amount and intensity of work to be done over the year and in the daily and weekly patterns of such work. In contrast, specialization in milk or egg production provides a fairly even flow of work, a large component of which is comprised of "chores" done every day and which, depending on the size of the farm, may or may not be full time employment for one or more workers.

To ensure full or at least substantially complete use of their resources, a high proportion of Ontario farmers engage in more than one type of farming. Combinations of livestock and field crop production are common. Examples include growing field crops on dairy and hog farms and, in some instances, producing surplus grain or beans for sale. Such a combination completely alters the hours of work requirements from those directly associated with animal care and makes the peak planting and harvesting period particularly demanding because the on-going chores also have to be done.

Another practice directed toward achieving better use of resources is to grow a number of different crops that even the flow of work to be done over the full growing season. In labour intensive fruit and vegetable production, farmers deliberately design a mix of crops that occupies their hired workers and themselves on a full-time basis from early spring

to mid-fall. The practice permits them to attract a stable and better qualified work force and gives the worker steady employment along with higher total earnings for the season. Judging from discussions with farmers, this planned approach outlined not only increases the total hours of individual workers but also permits greater control of time worked per day and per week. In contrast, a fruit farmer who employs and releases workers in response to the peak work loads of several crops experiences extreme frustration and has to spend most of his time finding, training, supervising, and resolving the problems of uncommitted and inexperienced workers.

Size and Organization:

Table 3 shows how farm employment was distributed by type of farm organization in 1980. Individual or family farms accounted for 75 per cent of those employing hired labour and for 47 per cent of all hired farm worker employment. However, only 37 per cent of the individual proprietorships employed labour compared to about 80 per cent of the incorporated farms. On average the individual or family farms had 0.61 person years of hired help and the corporate farms 6 to 12 times that amount. The data tell nothing directly about how the type of farm organization influences work time, but they are useful background to other information on the topic.

Table 3 leaves little doubt that almost two-thirds of hired labour is found in employment units of one worker or small groups engaged temporarily. Where single workers are employed year-round, a close work relationship with the farmer and work time patterns compatible to his are likely to exist. The available information does not permit further comment on practices where one or a very small number of workers are employed, but a paper prepared for the European Economic Community raises important questions that have a bearing on working time.

Table 3
Person-Years of Hired Worker Employment (1980)
by Farm Organization

Type of Organization	Farms Employing Hired Workers		Employees (Full-time Equivalent) ^b		Average Employees Per Farm ^c
	Number	% of Farms ^a	Number	%	
Individual Proprietorship	25,561	37.4	15,511	46.9	0.61
Partnership - Verbal	2,740	48.7	3,676	11.1	1.16
Partnership - Written	3,161	60.9	2,385	7.2	0.87
Corporation - Family	2,143	79.7	8,723	26.4	4.07
Corporation - Other	348	81.3	2,508	7.6	7.21
Other Forms	70	70.0	297	0.8	4.24
TOTAL	34,023	41.3	33,100	100.0	0.97

Source: Statistics Canada, Census of Agriculture, 1981.

^a % of farms employing at least one worker. The total number of farms, by type of organization, is given in Table 2.

^b Total weeks of hired labour supplied by Statistics Canada divided by 52.

^c Number of full-time equivalent employees, divided by the number of farms employing such employees, for each farm type.

The effective representation of the interests of farm workers is...hindered by their personal dependence on their employer, the proximity of worker accommodation to the farm, the prevailing isolation of workers - most work alone or with a very small number of colleagues - and the lack of worker representation on the farm which generally results. Nor should the fact be overlooked that farm workers, although considerable in numbers, are a minority that has particular difficulty in making itself felt politically. (Lojewski, 1985)

In these circumstances it is unlikely that such workers are in a position to influence hours. The farmer- employer is in control and the hours probably are governed by the nature of the task at hand.

At the other end of the scale are farms that are heavily dependent on substantial numbers of hired workers. These can include single proprietorships and partnerships as well as corporations. Discussion with ten or eleven of these farmers disclosed that very considerable attention is given to attracting suitable labour. Almost all stressed the importance of open communication with their hired help. There is clear, sometimes written, recognition of regular hours and serious efforts are made not to violate them without good cause. Worker time-off is recognized as essential and in return there is an expectation that when an emergency or heavy workload arises it will be done. Perhaps the most important basis for this approach is careful planning of the work load and performance of it. Farmers who operate in this way appear to be able to establish acceptable hours and observe them a high proportion of the time. This is the case in farms with small or large work forces. That is, attracting willing and productive workers and keeping them fully employed but not over-employed seems to reduce the need for very long hours. However, it does not remove the farmer's requirement for the flexibility to respond to unpredictable situations.

The trend to part-time farming also has employment implications. In 1981, 6,196 out of 82,448 farmers on census farms reported off-farm work and almost half of them worked

at full-time off-farm jobs. People who have observed this practice see it as the major current development in farm organization and one that brings skilled and responsible workers into the industry, many of them on a second job and part-time basis.

Although the above does not define strict patterns of how farm size and organization relate to worktime, it indicates that they do affect it. It will be important to know more about the nature and extent of these relationships before hours of work constraints are imposed on the industry.

Production Techniques:

Since maximum hours of work and vacation pay requirements were defined in legislation in 1944, there have been sweeping changes in farm production techniques. Evidence of this lies in the rapid expansion of the use of machinery and chemicals on farms (Haslett, 1984); in the redesign of livestock and poultry barns and husbandry practices; and in the mechanization and sometimes automation of such activities as distributing feed, ventilating structures, and watering plants. These developments have altered manual labour requirements and continue to do so. Perhaps the principal effect has been to reduce the labour input required to accomplish a particular objective, for example, to produce 100 acres of tomatoes for processing. It has done this by transferring some tasks from people to machines and by reducing the physical demands of the remaining tasks.

The influence on hours worked is not so clear. There is evidence that some workers are no longer employed for a sufficient number of hours in the day to satisfy their income needs. At the other extreme, the need to monitor animal or poultry facilities or to use expensive tractors and other machinery to full capacity can demand very long hours. Sixteen-hour days are not uncommon. For example, a team of horses could not plough for 24 hours a day but a tractor does not get tired and work schedules reflect this. How hours of work are adjusted to changes in farm production techniques,

and how rapidly they are adopted by most farmers engaged in a particular agricultural enterprise needs to be considered in exploring the impact of removing the farm exemption from the employment standards legislation.

Cost and Prices

Farmers leave no doubt that the cost/price squeeze in which they find themselves prevents them from significantly improving working conditions for their hired labour. They see low wages as the principal problem, but long hours and lack of premium pay arise in large part from the same reason. In some instances hours could be controlled by employing more workers but the extra staffing seems to be out of the question without a major increase in the prices received for farm products. Improvement in these prices requires major (and unlikely) policy changes. However, there may be some areas of Ontario farming in which increased employment is needed and is financially quite a practical solution to the use of abnormally long hours. Such situations co-exist with some of the most severe working conditions in the industry.

HIRED FARM WORKERS

In evaluating the position of hired farm workers, it is useful to analyze their situation relative to the self-employed and unpaid components of the farm work force. Unfortunately, no consistently maintained statistical series sets out to measure the number of workers employed or the time worked in Ontario agriculture. The 1981 Census of Agriculture equated farmers with the number of census farms, reported their days of off-farm work in 1980 and the total weeks of "paid hired labour" worked on farms in that year. Estimates of Ontario residents in agricultural work are derived from Statistics Canada's monthly Labour Force Survey. These estimates do not include the thousands of non-residents of the Province (approximately 9,000 in 1986) who work on Ontario farms for periods of a few weeks to eight months each year but they do include people who reside in Ontario but work in agriculture in other jurisdictions. In addition, Statistics Canada notes that the overall annual averages of

agricultural employment drawn from the Labour Force Survey are accurate within a range of plus or minus 5.1 to 10 per cent.

Both Census and Labour Force Survey data are used in the following discussion to outline broad patterns of farm employment but not to suggest actual employment levels in a precise way. Labour Force data are used to indicate the distribution of farm workers between major employment categories and seasonal employment patterns. Census data show the composition of hired employment between year-round and seasonal workers, and where they work.

Hired and Other Farm Workers

There is a marked difference in the mix of self-employed, unpaid and hired workers employed in agriculture from that in any other major industry. While they are a growing segment of farm employment, as of 1986 paid hired workers account for only 40 per cent of the total (Table 4). This compares to a paid-worker share of more than 92 per cent of employment in all non-agricultural industries. In contrast, self-employed farmers/owners contribute roughly 50 per cent of annual average agricultural employment but the self-employed in other industries average less than 8 per cent of aggregate employment. Farmers have maintained their 50 per cent share despite a sharp drop in the numbers of own-account farmers over the past eight years. The third significant component is unpaid family workers. Almost two-thirds of the unpaid workers in the Ontario work force are found in agriculture. Table 4 shows their numbers to be in sharp decline, but in 1986 they continued to make up more than 10 per cent of the agricultural workers resident in Ontario. The proportions noted in this paragraph and in Table 4 would be somewhat different if the data included non-resident paid workers; that is, the paid worker share would be one or two percentage points greater and the others slightly less than shown.

Duration of Employment

Hired workers on farms have two distinct employment patterns, year-round and seasonal. The 1981 Census found that 10,722 farms employed year-round labour and that two and a half that number, 26,812, had seasonal workers. Nevertheless, the weeks of labour paid for in 1980 were almost the same for the two groups, that is, 859,458 weeks of year-round labour and 861,720 weeks of seasonal labour.

The very marked seasonal employment pattern for paid workers in agriculture is well illustrated by the monthly estimates of such workers from the Labour Force Survey for 1986. As shown in Table 5, the number of paid workers was at its lowest, 31,000, in January and reached a peak of 73,000 in August giving a maximum to minimum ratio of 2.35. Because there is some seasonal employment on Ontario farms in every month of the year, year-round employment is probably running somewhat below the January estimate. As a result of the presence of many migratory workers in the Province during the peak month who would not be captured in the Survey, the actual figure for August is at least 7,000 above that reported. Consequently, the actual maximum to minimum ratio (January to August) is more likely to be in the 2.5 to 3.0 range.

Seasonal patterns of employment in the tobacco and ten fruit and vegetable crops are the subject of a recent report of the Joint Ontario Agricultural Human Resources Planning Committee. Census data and Ministry of Agriculture and Food records were used to estimate total and seasonal labour requirements for each crop and to distribute them by month over the calendar year (Haslett, 1986). Figures 1, 2 and 3 summarize the results of this work and demonstrate the various patterns of seasonal work and the short duration of it during the tobacco and apple harvests. The harvesting of the crops analyzed in the figure is the source of the most urgent demands for short term workers in Ontario farming, and in some instances this is associated with long hours.

Table 4
Workers Employed in Agriculture, Ontario,
1975-1986 Annual Averages

Year	Total Workers ^c (thousands)	Farmers and Owners ^a		Hired Paid Workers ^b		Unpaid Family Workers	
		No.	%	No.	%	No.	%
1975	117	60	51.3	40	34.2	18	15.4
1976	112	55	49.1	40	35.7	17	15.2
1977	127	60	47.2	46	36.2	20	15.7
1978	131	67	51.2	40	30.5	24	18.3
1979	146	73	50.0	46	31.5	27	18.5
1980	143	68	47.6	53	37.1	22	15.4
1981	143	70	48.9	51	35.7	22	15.4
1982	131	68	51.9	45	34.4	18	13.7
1983	136	65	47.8	52	38.2	18	13.2
1984	125	63	50.4	44	35.2	18	14.4
1985	127	64	50.4	47	37.0	15	11.8
1986	128	63	49.2	51	39.8	14	10.9

Source: Statistics Canada, Labour Force Survey.

^a Includes own-account farmers, employer farmers and owners of incorporated farms (one per farm).

^b Paid workers as published annually in the Labour Force, less own-account farmers as included in Table 8.

The figures show that much of the seasonal work is for extended periods, notably April to October or November. In some instances high levels of demand may complement each other, for example, those of tobacco in August, tomatoes in September and apples in October. However, these requirements may be for workers with different capabilities and in different parts of the Province.

Ontario's seasonal demand for agricultural workers is met partly through utilization of off-shore workers and migrant workers from other regions of Canada. For example, in 1986, there were 5,007 arrivals of off-shore workers--Caribbean and Mexican migrants -- who filled 5,575 jobs. To make the employment more attractive, the Canada Farm Labour Pools and others attempt to extend employment by transfers from one employer and crop to another. Similarly, efforts are being made to attract out-of-province Canadian workers to come to Ontario for a full season rather than for harvest work only. The thrust is seen as having several advantages in that it provides the workers with more income, tends to develop a commitment to farm work, serves the Canadian-first employment objective, reduces travel costs and is likely to give the employer experienced and responsible labour. However, substantial amounts of seasonal work are for only two, three or four weeks, for example, corn detasseling, strawberry picking and tomato planting. These requirements are met without great difficulty by students, seniors, local women and others who want short-term work, and to some extent from the unemployment and welfare rolls.

Where Employed

Of the 82,448 farms reported in the 1981 Census of Agriculture, 34,023 or 41 per cent employed paid labour.

Table 5
Monthly Employment of Hired^a Paid
Workers in Agriculture, Ontario, 1986

Month	Paid Workers in Thousands	Ratio to Annual Average
January	31	0.61
February	34	0.67
March	40	0.78
April	50	0.98
May	54	1.06
June	65	1.27
July	66	1.29
August	73	1.43
September	60	1.18
October	55	1.08
November	46	0.90
December	36	0.71
	51	1.00

Source: Statistics Canada, Labour Force Survey.

^a Paid workers as published in the Labour Force, less annual average number of owners of incorporated farms, 5,000 in 1986.

Fig. 1 Number of Total Person-Year Equivalents Required for Production of Tender Tree Fruits and Six Other Crops, By Month, Ontario, 1980.

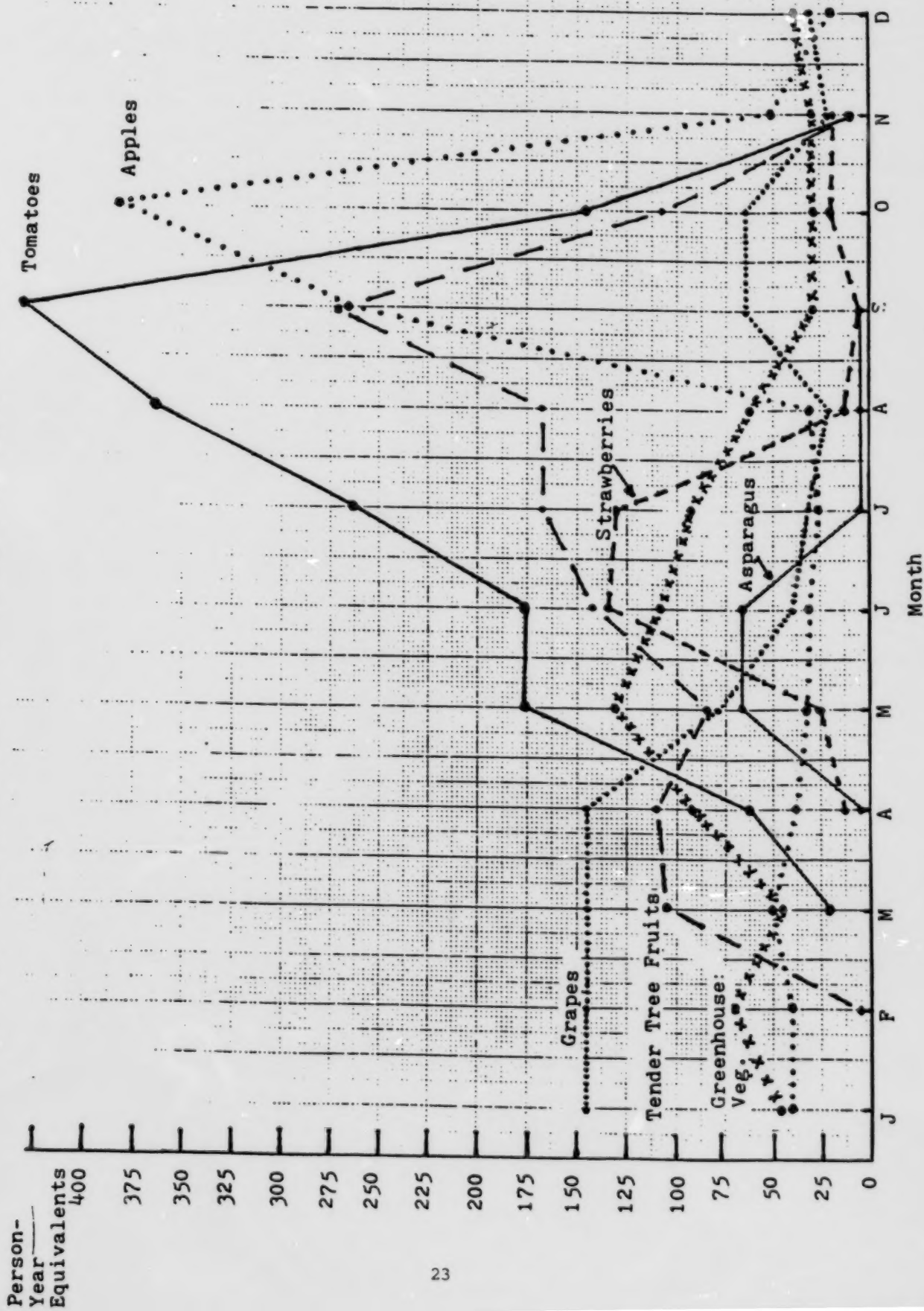


Fig. 2 Number of Total Person-Year Equivalents Required for Production of Tobacco and Ten Other Crops, By Month, Ontario, 1980.

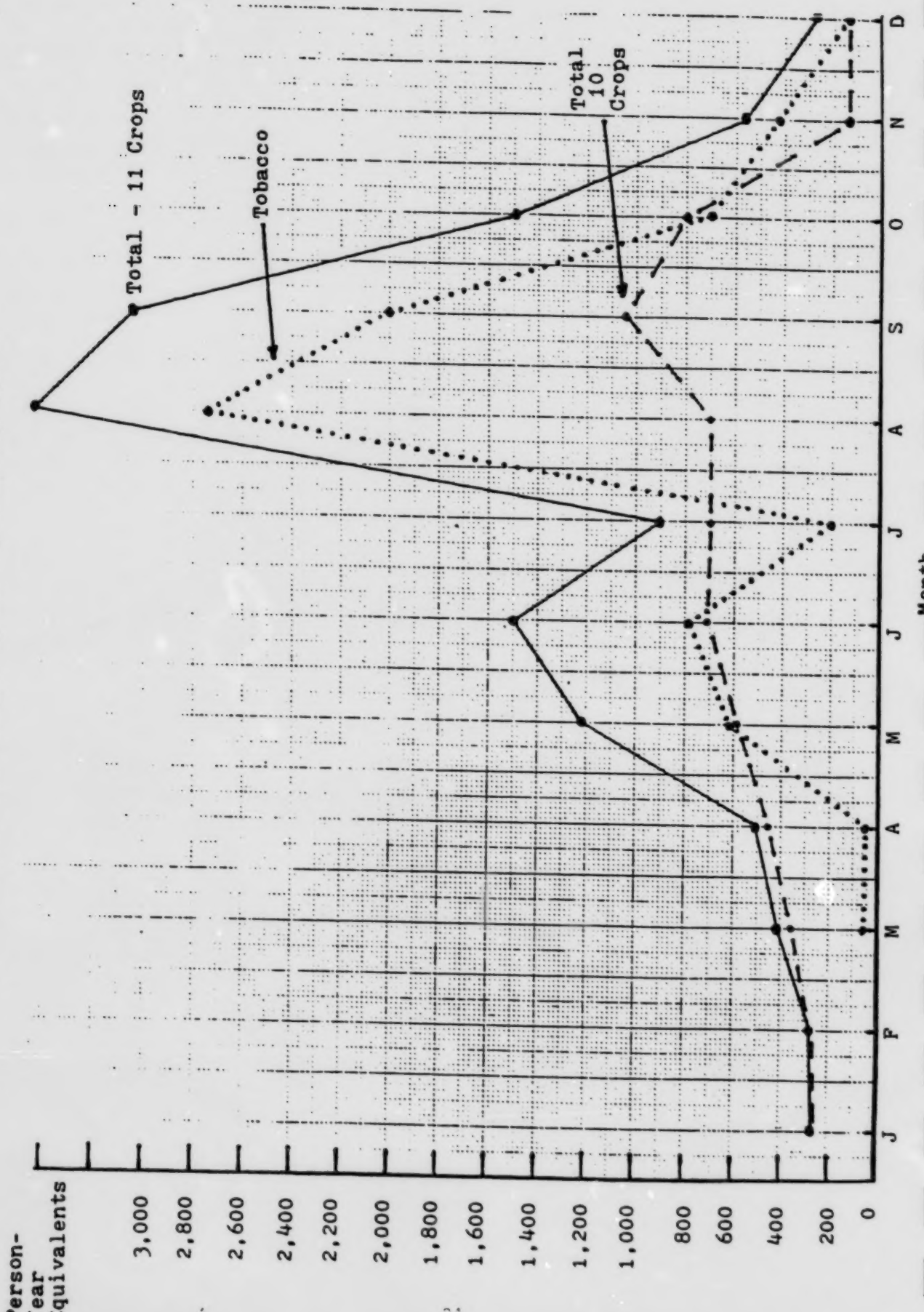
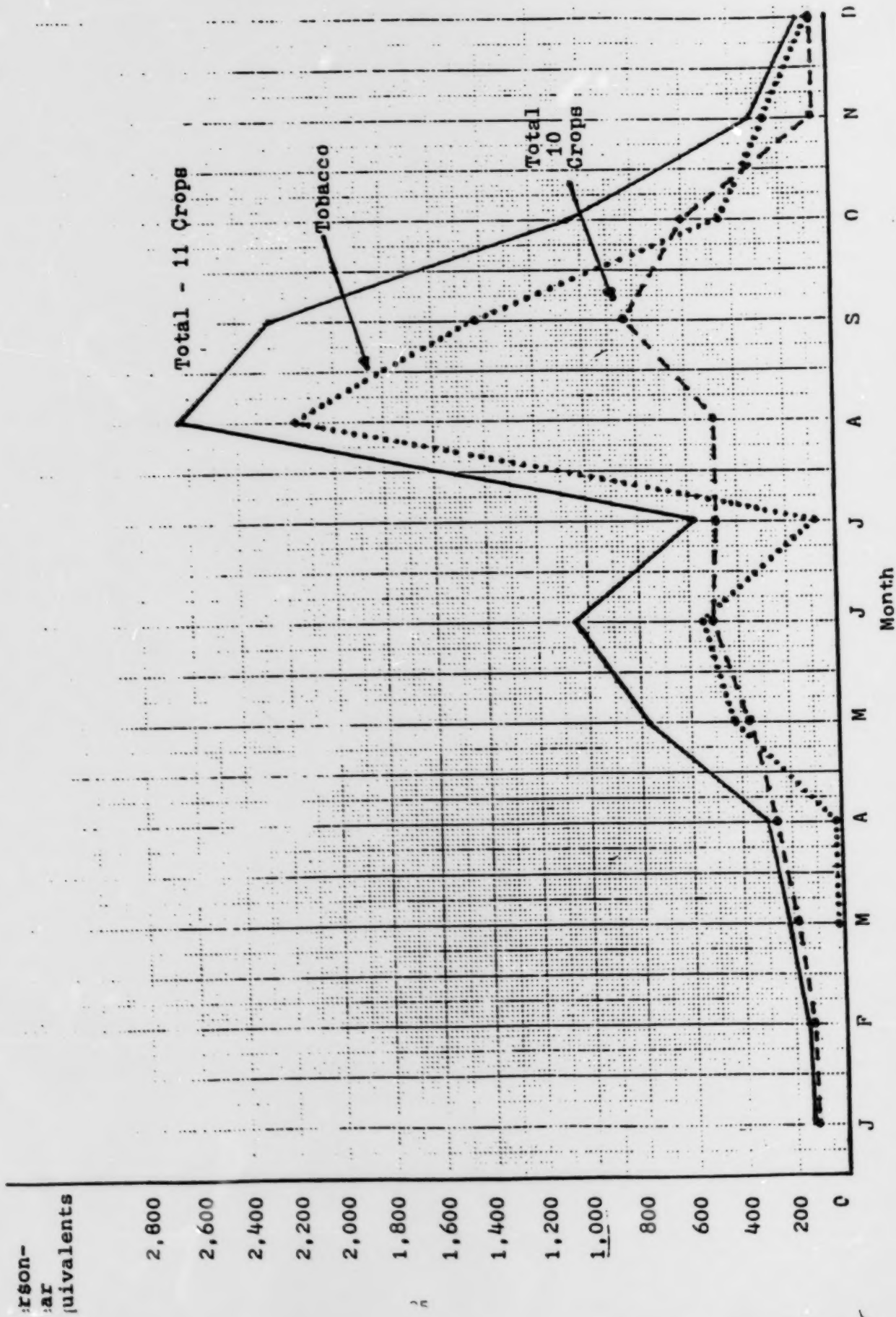


Fig. 3. Number of Seasonal Hired Persons - Year Equivalent of Production of Tobacco and Ten Other Crops, By Month, Ontario, 1980.



However, as indicated in Table 6, the average number of person-years of such labour per employing farm was 0.97. For year-round workers this average rose to 1.54 person-years but for seasonal employment it was only 0.62. These data leave no doubt that a large majority of the employment units in Ontario agriculture are very small indeed, a matter of considerable significance with respect to designing and administering hours of work controls.

Despite the very low averages there are a few substantial agricultural employers with 50 to two or three hundred workers on a year-round nearly year-round basis. Some predominantly seasonal employers also reach these employment levels for periods ranging from several days to several weeks. The more usual pattern is for year-round workers on relatively large farms to number from one to three and for substantial seasonal operations to have up to 6 core workers during most of the growing season and to expand that number by 3, 4, or 5 times for particularly busy periods. However it should be stressed that the farms which fall into these "very large" and "relatively large" categories are a small proportion of the total. The more common situation involves a few weeks or months of hired help per farm (Table 3).

Hired employment is concentrated in a limited number of farm types (Table 7) and that the average number of person-years per farm exceeded 2 only in fur, tobacco, potato, mushroom, greenhouse and nursery operations. Mushroom farms stand out with an average of more than 16 person-years of work with nurseries in a distant second position at 4.6 person-years, and greenhouses in third position with an average of 3 person-years. In the more conventional areas of livestock and field crop farming, potato farms at 2.9 person-years had the highest average level of paid employment in 1980 while dairies, which employed more hired help than any other farm type, averaged only three-quarters of a person-year.

Table 6
Person-Year Equivalent per Farm
Reporting, Ontario, 1980

Item	Person-Years
Number Person-Year Equivalents of Paid Labour	33,100
Average Number Person-Year Equivalents of Paid Labour Per Farm Reporting Paid Labour	0.97
Average Number Person-Year Equivalents of Year-Round Labour Per Farm Reporting Such Labour	1.54
Average Number Person-Year Equivalents of Seasonal Labour Per Farm Reporting Such Labour	0.62

Source: Statistics Canada, Census of Agriculture,
Ontario, 1981.

This uneven distribution of hired employment among farm types is reflected in the year-round and seasonal segments (Table 7). The former is concentrated in livestock and the indoor production of vegetables and flowers. The latter, seasonal employment, predominates in all out-door crops and especially in tobacco, fruit and vegetable production where the ratios of seasonal to year-round person-years are respectively 9 to 1, 3 to 1 and 4 to 1. In addition, relatively large amounts of year-round and seasonal labour are employed in a few farm types, for example, cattle, corn, greenhouses and nurseries.

Attracting and Holding Workers

Attracting and holding paid workers is a major concern of farmers who utilize paid labour. There is recognition that the problem arises in large part from the relatively low wages that are offered. Almost all farmers who were interviewed stated that they would like to pay higher wages but the financial position of the farm precluded doing so. In these circumstances, they generally expect, and get, people who have limited employment opportunities but there are many exceptions. Also the labour sources are substantially different for year-round and seasonal workers.

Most year-round hired workers are employed singly or with one or two others, have limited organizational contacts, and carry major responsibility for the success of the operation. Those who stay with a farm for extended periods tend to develop strong work commitments and to be in close communication with their employers. While there are many instances of medium- and long-term job tenure, turnover presently is high because of the relatively tight labour market in southern Ontario. Both farmers and Farm Labour Pool officials are very aware of this situation and note that it is more acute near the large and prosperous cities. As a

Table 7
Person-Years of Hired Farm Labour (Year-Round and Seasons)
by Type of Farm, 1980

Type of Farm	Farms Reporting Hired Labour	Person-year Equivalent of Hired Labour					
		Year-Round Labour		Seasonal Labour		Combined	
		Total	Per Farm	Total	Per Farm	Total	Per Farm
<u>Livestock</u>							
Dairy	8,215	4,501	0.55	1,768	0.22	6,269	0.76
Cattle	7,825	1,817	0.23	1,254	0.16	3,071	0.39
Hogs	1,730	899	0.52	320	0.18	1,219	0.70
Poultry	1,147	1,737	1.51	372	0.32	2,109	1.84
Sheep & Hogs	322	37	0.11	64	0.20	101	0.31
Horses	559	654	1.17	155	0.28	809	1.45
Furs	112	200	1.79	79	0.71	279	2.50
Other Animal Specialties	127	26	0.20	38	0.30	64	0.50
Cattle & Hogs	559	238	0.43	103	0.18	341	0.61
Mixed Livestock	453	268	0.59	105	0.23	373	0.82
Sub-total	21,049	10,377	0.49	4,258	0.20	14,635	0.69

Table 7 continued

Type of Farm	Farms Reporting Hired Labour	Person-year Equivalent of Hired Labour					
		Year-Round Labour		Seasonal Labour		Combined	
		Total	Per Farm	Total	Per Farm	Total	Per Farm
<u>Field Crops</u>							
Wheat	207	18	0.09	39	0.19	57	0.28
Small Grains	2,001	374	0.19	550	0.27	924	0.46
Oilseed	820	82	0.10	166	0.20	248	0.30
Corn	1,813	477	0.26	560	0.31	1,037	0.57
Forage	246	37	0.15	37	0.15	75	0.30
Pea & Beans	49	6	0.12	9	0.18	15	0.30
Tobacco	2,092	458	0.22	4,184	2.00	4,642	2.22
Potato	135	178	1.32	207	1.53	385	2.85
Field Crop Combinations	183	56	0.31	158	0.86	214	1.17
Sub-total	7,546	1,686	0.22	5,910	0.78	7,596	1.01

Table 7 concluded

Type of Farm	Farms Reporting Hired Labour	Person-year Equivalent of Hired Labour					
		Year-Round Labour		Seasonal Labour		Combined	
		Total	Per Farm	Total	Per Farm	Total	Per Farm
<u>Fruit, Vegetables & Horticulture</u>							
Fruit	2,119	756	0.36	2,275	1.07	3,031	1.43
Vegetables	1,380	401	0.29	1,674	1.21	2,075	1.50
Fruit & Vegetables	74	24	0.32	89	1.20	113	1.53
Mushrooms	55	766	13.93	138	2.51	904	16.44
Greenhouse	859	1,603	1.87	996	1.16	2,599	3.03
Nursery	322	618	1.92	860	2.67	1,478	4.59
Horticultural Specialties	44	3	0.07	7	0.16	10	0.23
Sub-total	4,853	4,171	0.86	6,039	1.24	10,210	2.10
Other	575	294	0.51	365	0.63	659	1.15
TOTAL	34,023	16,528	0.49	16,572	0.49	33,100	0.97

Source: Statistics Canada, Census of Agriculture, 1981.

consequence, farmers comment that they can hold only people who have a strong liking for farm work and life. Skills with animals and machinery plus a taste for variety in work tasks appear to be important qualifications. Several of the farmers interviewed noted that they discuss their capacity to pay openly with their workers and that they use pay incentives to encourage interest and productivity.

There are numerous sources of long-term hired farm labour. The major one seems to be the rural and small town population of farming areas. Young people who get some farm experience as they go through school and who want to stay in farm settings make an important contribution. Some of them use farm work only as a first job but others stay longer. People who find other kinds of work unsatisfactory fill a substantial number of farm jobs, as do former farmers and members of farm families. Immigrants from the Netherlands and Britain supplied permanent farm workers two or 3 decades ago. These sources have become less important, but Portuguese immigrants and others from southern Europe maintain strong contacts "back home" and serve as channels through which workers are found for the year-round jobs in mushroom and greenhouse operations. Finally, farming offers a number of simple and routine jobs that disadvantaged people are capable of handling. Placement services find that many satisfactory employment situations develop from efforts to find such work for these people.

As already noted some types of farming depend heavily on seasonal workers. Because they are required urgently and in fairly large numbers for specific tasks, farmers, their associations, and government agencies give a great deal of attention to ensuring that the annually recurring demands are met. The special recruitment approaches used are intended to supply suitable or qualified workers. Without attempting to cover the full spectrum used, several of the more important are outlined below to give information on the practices themselves and on the nature of the employment that results from them.

The discussion is based on two principal sources of information. An overview of recruitment practices and details of experience with them was obtained through consultations with farmers and officials of agricultural agencies. Second, a survey of attitudes toward harvest work, conducted for the Joint Ontario Agricultural Human Resources Planning Committee in 1985, is drawn on for statistical evidence (White, 1986). The survey was carried out among tobacco, fruit, vegetable, and vegetable greenhouse farmers, their seasonal employees, and late-summer employment agency applicants for harvest work.

The principal means of obtaining seasonal workers is through arrangements made directly between farmers and potential employees. Farmers establish and maintain contacts with local people and with identifiable groups in urban areas who are interested and capable of undertaking work in planting, cultivating and harvesting crops. The contacts are taken seriously to the point that mutual expectations are developed that jobs will be offered and filled on a recurring basis. The practice is particularly common in fruit, vegetable and tobacco farming but is used in connection with other crops as well. In the Joint Planning Committee's survey more than 35 per cent of the workers interviewed said they "had worked here previously" and the most common recruitment practice "used by the farmer was personal contact, with 66.7 per cent reporting this method" (White, 1986).

Instances of the personal contact approach pervade discussions with farmers about their staffing practices. In tobacco farming there is considerable demand for seasonal labour between mid-May and early August. Workers are required in varying numbers to assist in planting, replanting, cultivation and irrigating the fields. Practically all this work is done by local people. For example, planting, which is the most labour intensive of these pre-harvest tasks, is done frequently by housewives and

high school students working after school. The period they are needed is about 10 days and the use of mechanized equipment has eased the physical effort required for the job. However, the August and September harvest period requires many more workers than can be provided by the people in the tobacco-growing counties. Substantially similar arrangements are found in planting tomatoes, and harvesting soft fruits and fresh vegetables. Students and seniors make up large proportions of this seasonal work force working as their other commitments and energy levels permit. Other manifestations of personal arrangements are those between farmers and closely-knit groups of immigrants living in urban areas. These people commute by the day or week to jobs in growing and harvesting vegetables and field crops.

Acting side-by-side with the farmers are the various employment services -- Canada Employment Centres (CEC), Canada Employment Centres for Students (CECS), and Canada Farm Labour Pools (CFLP). There are 21 CFLP offices in southern and eastern Ontario that made 26,300 local placements in farm work in 1986. Some of these were for year-round work but most were in seasonal positions. Of the 342 applicants to CFLPs who participated in the Joint Committee survey, 68.4 per cent asked for harvest work because they needed money, 11.7 per cent did harvest work annually on a part-time basis for cash, and 19.9 per cent because of pressure from welfare or unemployment insurance agencies. The average number of jobs they held until the August-September time of the survey in 1985 was 2.4.

Working in conjunction with CECs, in 1986, the Pools arranged for 4,940 workers who live beyond commuting range of farm jobs to move to them. Of the total number cleared for assistance, 1,150 were Ontario residents, 3,350 came from Quebec, and the remaining 440 from the Atlantic Provinces. To use the program the workers must be requested by the farmers who will employ them. By the device of paying transportation costs, the program discourages ill-informed searching for farm employment, selects good candidates for

the work to be done, and encourages the workers to stay to the end of their assignments. To date most of these "clearance" workers have done only harvest work but a major effort is underway to attract them to farm work for the full growing season and, if necessary, to move them from one employer to another to ensure their continuous employment.

The better known migrant farm worker program for staffing seasonal jobs in Ontario brings in Mexican and Caribbean residents. Because of their dependability and willingness to do the types of work required in growing fruit, vegetables and tobacco, they are in great demand. They are permitted to enter the country for employment only to the extent that satisfactory Canadian workers do not appear to be available. In 1986, 4,803 "off-shore" migrants came to jobs in the types of farming mentioned and another 304 came to work in food processing plants. On many farms they form the core work force that is employed in greenhouses from February or March to September or October and in outdoor fruit and vegetable production from April to November. Relatively large numbers of arrivals occur in July and September to assist in the tobacco and apple harvests. Arrivals in 1986 were as follows:

February	60
March	134
April	866
May	489
June	365
July	1,277
August	696
September	<u>1,120</u>
Total	5,007

All workers and their employers enter into agreements covering a specified term of not less than six weeks but setting no limit on hours worked. The Ontario industrial minimum wage rate is required and it must be paid for at least 40 hours each week whether or not work is done. The

employer also provides adequate living accommodation and meals (or facilities for the workers to prepare their own meals). In addition, the employer pays most of the costs of return air transportation from the worker's home country to Canada and is responsible for transportation to and from the airport in Ontario. In return, the workers are expected to work diligently and safely and to maintain their living quarters in a clean condition. The agreement also sets out conditions for early termination and how the associated costs will be shared.

The program has been in place since 1966 when 264 Jamaicans workers entered Ontario. The next year Barbados and Trinidad and Tobago participated. The program expanded to include Mexico in 1974 and the Eastern Caribbean Islands in 1976. By 1970, 1,113 workers came to Ontario under the program. The numbers peaked at 5,912 in 1980, fell to 4,428 in 1983 and rose to 5,007 in 1986. The source countries are anxious to maintain and expand the program and generally work to ensure its satisfactory administration. In particular the Caribbean countries supply Liaison Officers who hear workers' concerns, represent their interests and deal with employers' complaints if any arise. The Mexicans do not have such an arrangement but this year they have been given an 800 telephone number for contacting their embassy in Ottawa.¹

The stability of the off-shore workforce is a major reason for the satisfaction with them. In contrast to the off-shore workforce, there is incredible turnover among the domestic workforce. For example, of the 5,974 Canadian seasonal workers employed by the 167 farmers who participated in the Joint Committee's survey, 2,041 left their jobs before they were completed and 338 were released by their employers. The principal reasons given by workers deciding to leave were to return to school, 11.5 per cent; work too difficult, 25.3 per cent; pay inadequate, 14.7 per cent; and no reason given 39.9 per cent.

On questions related to high turnover, the 217 employees surveyed were asked to select two means of improving harvest work. In response, 81.7 per cent selected increased wages, 38.5 per cent better working conditions, and 21.6 per cent selected shorter hours. In contrast, when asked what was most important when working on a farm, "The way the farmer treats you" was ranked above wages and the least important factor of 5 was "hours of work" (White, 1986).

HOURS, OVERTIME AND PAID TIME OFF

Earlier sections of the paper identified factors that tend to distinguish farm work requirements from those of other areas of employment. An effort was made to indicate how these requirements and staffing arrangements are accommodated in the daily and weekly hours of the people, especially the hired labour, who do farm work. Again there is insufficient information to show the various ways this is done within one type of agriculture, let alone across the types listed in Table 1. Nevertheless, the material presented should suggest the variety of the worktime practices and attitudes to be considered if the government undertakes to limit hours of work in the industry.

Average Hours of Paid Workers

Table 8 shows the average hours worked by Ontario residents employed as paid workers in agriculture and in 8 other industry divisions. For all such workers in agriculture the average was 41.6 hours per week compared to 36.9 per week for paid workers in all industries.

The average for agriculture is influenced by a high proportion of part-time workers, 20.4 per cent, a share that is exceeded only in the trade and service divisions. For the four-fifths of paid workers engaged on a full-time basis the average actual hours worked were 48.6 per week, 20 per cent greater than the all-industry average. The high agricultural average is shaped by the fact that 25.6 per cent of workers in the industry worked 60 hours or more per week compared to 7.3 per cent in construction, the largest proportion working

such long hours in any of the other 8 industries. Although the averages in Table 8 do not report directly on hired worker employment in Ontario farming² they are almost certainly a good indicator of the relationship of agricultural hours to those in other industries and they confirm the existence of relatively long hours worked in agriculture.

Farm or Product Specific Practices

The averages discussed above conceal an endless variety of arrangements of daily, weekly, bi-weekly and longer-term hours.

The following are illustrative examples:

- o A fruit and vegetable farm operated by 3 family members during the late fall and winter and by a seasonal work force that grows to 25 to 30 people during the peak harvest season.

Regular hours are 9 per day and 54 in a week of 6 days while hired workers are employed. In "rush periods" of two to 3 weeks in the spring, fall or both hours may rise to 10 per day and 60 to 65 per week -- these levels are rarely if ever exceeded. Worktimes and hours are flexible to attract responsible local workers (students, women with domestic responsibilities and seniors) for harvest work.

No overtime premium or vacation pay for seasonal workers, but occasionally a paid holiday may be given.

- o Dairy and field crop farm operated by a farmer and full-time hired man with a part-time high school student and occasional family help.

Regular hours are 10 per day, only necessary work done on Sundays, and 2 1/2 or 3 days off in every 14 day period. The 10 hour days are from 5:30 am to 6:30 pm with one-and-one-half hour breaks for breakfast and a noon meal. Both men on call all the time. During ploughing, seeding and harvest time, hours frequently lengthen to 12 and occasionally up to 16 per day but the hired man is not asked to work more than 12 hours. Student covers fortnightly time-off and other short staff periods.

Table 8
Employed Paid Workers by Number of Actual Hours Worked
(Main Job) by Industries. Full-Time/Part-Time.
Ontario, Annual Average 1985

	Total Employed	Thousands					60+ Hours	Average Actual Hours Worked(1)
		1-29 Hours	30-40 Hours	41-44 Hours	45-48 Hours	49-59 Hours		
TOTAL EMPLOYED								
ALL INDUSTRIES	4,003	699	2,174	179	237	253	170	36.9
Agriculture	54	13	16	...	5	6	11	41.6
Other Primary	52	...	33	...	4	...	...	41.3
Manufacturing	996	56	636	59	84	66	26	39.9
Construction	191	22	102	9	14	21	13	39.9
Trans. Comm. & Ot. Util.	291	31	165	14	18	20	16	39.4
Trade	690	185	325	35	35	42	28	34.5
Finance	242	33	143	9	11	17	12	37.7
Service	1,196	323	560	36	53	69	55	34.2
Public Administration	291	33	195	14	12	9	6	36.7
FULL-TIME ALL INDUSTRIES	3,404	160	2,157	178	236	252	169	40.6
Agriculture	43	...	16	...	5	6	11	48.6
Other Primary	51	...	33	...	4	...	...	41.7
Manufacturing	966	29	635	59	84	66	26	40.7
Construction	178	11	101	9	14	21	13	41.7
Tran. Comm. & Ot. Util.	270	13	165	14	18	20	16	41.1

Table 8 concluded

	Total Employed	Thousands					Average Actual Hours Worked(1)
		1-29 Hours	30-40 Hours	41-44 Hours	45-48 Hours	49-59 Hours	60+ Hours
TOTAL EMPLOYED							
FULL-TIME							
ALL INDUSTRIES							
(continued)							
Trade	511	22	319	35	35	42	28
Finance	216	10	142	9	11	17	12
Service	898	56	551	36	53	69	55
Public Administration	271	15	194	14	12	9	6
							40.8
							40.2
							40.3
							38.4
PART-TIME							
ALL INDUSTRIES	599	539	17	...	...	...	...
							16.1
Agriculture	11	10	...	...	...	...	...
Other Primary	...	...	...	...	...	...	14.9
Manufacturing	30	27	...	...	...	...	14.2
Construction	13	12	...	...	...	...	15.2
Tran. Comm. &							14.1
Ot. Util.	21	18	...	...	...	...	...
Trade	180	163	6	...	...	...	16.8
Finance	26	23	...	...	...	...	16.5
Service	298	267	9	...	...	...	16.9
Public Administration	20	18	...	...	...	...	16.2
							13.6

(1) Average is calculated excluding persons who were not at work during the reference week.

Source: Statistics Canada, The Labour Force Survey.

No premium pay for overtime but paid vacation given.

- o Hog, field crop and vegetable farm operated by farmer and 5 year-round workers, 4 full-time field workers from May to November and additional harvest workers as required.

Hours vary from 8 per day and 40 per week for winter maintenance staff to 12 per day and sometimes 7-day weeks during much of the crop year. Swine herdsman work an 8-hour day with every second week-end off but are on call 24 hours a day as are two other senior people. Full-time field staff work very long hours on a strictly voluntary basis and special harvest help for approximately 6 to 10 hours a day as required to meet processing plant or fresh vegetable market demand.

No premium pay or paid holidays but permanent staff get paid vacations regularly.

- o Mushroom farm with a regular staff of preparatory, harvest and maintenance workers.

Target hours are 48 per week but currently they average 52 to 56 hours per week because of labour shortage. Daily hours vary in the cutting, packing and shipping activities, but are relatively long on the first 4 days of the week and shorter on Friday, Saturday and Sunday. The range appears to be from 5 1/2 to 9 hours beginning at 7:00 am. Because mushrooms mature continuously the work is on a 7-day week basis with the crews or shifts being organized to give time-off on one day a week for those who wish it. For reasons of safety the day workers are not allowed to work later than 7:00 pm

No premium pay for long hours but paid vacations and holidays are standard practice.

- o Cash crop operation (grains, fodder, beans, corn, etc) staffed year-round by two brothers (owners) and 3 hired workers. Another brother helps with peak work loads and occasionally casual labour is hired.

In the "off- season" all work an 8 hour day and 48 hour week. When ploughing, planting and harvesting 12 hour days are normal and 16 hour days occur occasionally. These periods occur for a month in the spring and 6 weeks to two months in late summer and the fall. At peak work periods the field machinery is operated 20 to 24 hours a day but hired people are not often asked to do a night shift. Most of the time, work is for 6 days a week or less but no time-off is given in critical

periods except for emergencies. Off-season work is mainly machinery and plant maintenance and construction.

No premium pay is given but they have paid vacations.

- o A typical hog operation staffed by one man plus some part-time or family help to permit time-off.

Hours described as not burdensome at 8 or 9 per day for a 75 breed-sow operation but herdsman or helper must be on call 24 hours per day. Critical times are breeding, farrowing and first 6 to 8 weeks of life of piglets. They may not survive a temperature variation of more than plus or minus two degrees. This size of hog farm means caring for 750 animals and is a common component of a mixed farm or is the type of operation owned by a part-time farmer.

- o Greenhouse vegetable farm operated by two family members and 8 seasonal workers on a two acre farm.

The job requires one person per acre under cover during the crop change-over season (November to January) and up to 4 or 5 per acre while the crop (tomatoes and cucumbers) is growing and being harvested. Hours are 8 per day for a 5- or 6-day week while the soil is being prepared and new plants started. This increases to at least 10 hours a day and a 6- or 6 1/2-day week as the vines are trained and harvesting begins in March or April and carries on until late summer or early fall when the crop is terminated. Maximum hours appear to reach 72 to 80 per week on some farms with the more usual practice being 60 to 65. It is also usual during the hot days in May to August to start work at 4:00 or 5:00 a.m. and to take 3 or 4 hours off in the middle of the day to avoid the very high temperatures in the greenhouses. The work force is comprised 30 per cent or more of Mexican workers.

There is no arrangement for premium pay or for paid time-off.

- o Large dairy operation staffed by the farmer, a herdsman, two senior milking and feeding staff, a helper for them and two part-time people.

There is work activity in the barns for 18 to 20 hours a day each day of the year. Regular hours for the full-time people are 10 per day for a 7-day "on" and two-day "off" cycle. Breaks totalling 3/4 of an hour are taken during the 10-hour shifts. In each, 5 to 6 hours are spent milking and the remainder of the time is used for feeding, cleaning, moving the animals and other activities.

The farmer and herdsman attend to sickness, breeding, births, other occurrences and composition or development of the herd. The assistant and part-time help are used to ensure adequate staffing when the herdsman and milkers are away, which allows the seven day cycle to operate smoothly.

There is no premium pay, but time-off is arranged when needed and paid vacations when earned.

The above illustrations suggest the diversity of staffing and hours-of-work practices in a few types of farming. Earlier comments have noted typical arrangements in tobacco production and some other enterprises but the picture is far from complete. To the extent that the diversity reflects fundamental characteristics of the industry that influence how farm work is scheduled, they warrant consideration in evaluating the agricultural exemption from the Employment Standards Act. It would seriously inconvenience production processes and aggravate financial difficulties if some farming activities were required to comply with maximum hours of work standards. On the other hand, farms operating in controlled environments, and perhaps some others, appear to have no more grounds for exemption on the basis of uncertainty or of difficulty in scheduling production than are present in restaurants and some manufacturing operations. However, this may not be the case with respect to meeting competition from outside the Province, especially if the competition comes from jurisdictions that have no minimum wage or hours controls.

Attitudes to Long Hours

Farmers recognize that some work schedules in their industry are too long and they are concerned about the situation. As with low wages they contend that the problem arises from the competitive position in the industry and cheap food policies. They are uncomfortable with perceptions that they exploit disadvantaged members of the labour force when, in fact, the short-term nature of a large proportion of their labour requirements often means they are offering work to people who do not want to work full-time. Because the very long hours

are usually required for periods of only a few days to a few weeks, it raises a question about the suitability of applying controls designed for other industries.

Farm spokespersons point out positive dimensions to the farm situation. In some work there is a substantial recreational component in that it is done in pleasant outdoor environments, is to some degree self-paced, and is comprised of varied tasks. These characteristics attract such people as pensioners for picking fruit and mechanics for ploughing. However, they do not attract many to work in 40° Celsius in greenhouses or the dusty and odorous surroundings of chicken and hog confinement barns. Second, while there are periods of great work pressure they tend to alternate with ones of much less intensity and relaxed attitudes to hours schedules. These occur in most types of farming and vary from periods on crop farms at times when there is no direct production work, to ones of just an easier pace as on dairy farms during the winter months. Although seasonal workers are not excluded from these more relaxed periods they mainly benefit year-round workers. Third, farm hours compare more favourably with those of office and industrial workers if travelling time and stress are taken into account. On balance, the factors mentioned in this paragraph are favourable to farm workers and add weight to the view that comparison between farm and industrial hours is not simply a matter of looking at numbers.

As already noted, the survey done for the Joint Ontario Agricultural Human Resources Planning Committee revealed that long hours of work are not a top priority of either seasonal farm workers or applicants for such work. Nevertheless there are a number of important worker attitudes on the matter.

Solid evidence indicates that migrant farm workers (both off-shore and Canadians) find it worthwhile to come to Ontario for employment only if they are allowed to work long hours. Their purpose is to use the season to accumulate as much money as possible to take home when the job ends.

Consequently, it is not uncommon for Caribbean and Mexican migrants to work up to 12 hours and more a day and 6 days per week. One practice is to direct their efforts to the farmers' primary requirements for 8 or 9 hours and to do easier tasks, perhaps of their own choice, for the remainder of the day. However there are some situations in which these longer hours are demanded. Because of this and the fact that many of these people are isolated, have difficulty communicating in English, and are under considerable pressure from their home governments to do well in their jobs, more needs to be known about their attitudes on the hours some farmers ask them to work. Weight is added to this concern by the fact that two farmers who were interviewed set regular hours of 49 and 54 per week; the farmers stated that their off-shore employees were quite satisfied with these arrangements. In both these cases the maximum may be exceeded, but hired people are never asked to work more than 11 hours a day.

Workers who come to Ontario farms from other part of the country are reported to have attitudes on worktime similar to those described immediately above. In view of the rather low wages they receive, they require long hours of work to make their jobs worthwhile. For example, with the advent of mechanical picking of tomatoes, a processing company's daily quota may be filled in 5 to 7 hours. The people who operate these machines will not come to Ontario for such limited daily work assignments and other tasks have to be provided to ensure them more hours. Tobacco picking involves a somewhat similar situation but the wages paid are higher, which tends to hold committed workers. Nevertheless high turnover is experienced and has reached 34 per cent in the 6- to 8-week harvest period (Morse, 1985). While returning to school contributes to this high rate, much of it arises from "the strenuous nature of the tasks and the variable climate conditions" during the harvest season. Also, employer dissatisfaction with worker performance is a factor in the tobacco harvest turnover. In addition to the attitudes of the groups mentioned, it is common knowledge that many local

farm workers are anxious to work a sufficient number of weeks to qualify for unemployment insurance benefits for the remainder of the year. In the tobacco and other crop areas, considerable reliance is placed on this pattern of work and leisure both as means of providing personal income and ensuring the availability of an agricultural labour supply. These workers are aware of and tend to accept the hours of work required.

The Task Force on Health and Safety in Agriculture, which reported in 1985, received considerable input during its hearings about the attitudes of local farm labour. Some highly credible individual briefs noted and complained about long hours of work as being burdensome, restrictive of other activities, and a source of health and safety hazards. In addition, advocacy groups that did not demonstrate farm worker membership reported the findings of some investigative work they had done. They found extensive use of long hours and noted the difficulty some women face in complying with them. However, low wages and inconsiderate treatment were the principal areas of concern and this seems to be confirmed by the Human Resources Committee survey (White, 1986). The strong plea of the workers' representations was to extend the protection of the Employment Standards, Labour Relations and Occupational Health and Safety acts to cover hired farm workers. The discriminatory application of these acts was presented as unfair.

What emerges from the information on worker attitudes is that sharply reducing hours might seriously disrupt the migrant labour supply and, without improved wages, might do little to attract more and better local labour into farming. While there is legitimate employee concern about long hours, there is a high degree of acceptance of the hours schedules that are necessary to farm work. What is not acceptable are unreasonable demands by farmers and lack of effort on their part to schedule acceptable hours and give some time-off that is not required for rest. It was pointed out by most people interviewed that in the present Ontario labour market only

people who do not want full-time work are available for seasonal jobs. Because their farm employment is rather short term the need for strict hours control may be questioned. Where this is not the case is where migrant, recent immigrant, and disadvantaged workers are required to work burdensome hours in severe, unhealthy and unsafe conditions.

THE EXEMPTION

Currently the exemption of persons employed in farm work from the hours of work, minimum wages, overtime pay, public holidays and vacation pay standards of the Employment Standards Act are specified in Regulation 285, 1980. "A person employed...on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, maple products, honey, tobacco, pigs, cattle, sheep and poultry" (R.R.O. 1980, Reg. 285, s 3(i)) is exempt from each of the five standards mentioned.

Persons employed in:

- landscape gardening,
- mushroom growing,
- growing flowers for the wholesale and retail trade,
- growing, transporting and laying sod,
- growing trees and shrubs for the wholesale and retail trade,
- breeding and boarding horses on a farm, or
- keeping fur bearing animals for propagation or the production of pelts,

are exempt from the hours of work, overtime pay, and public holidays standards but not from the one on vacations with pay. In addition persons employed to harvest fruit, vegetables and tobacco must be paid the harvest minimum wage and if employed for 13 weeks or more, are eligible for paid holidays and vacations but are exempt from the hours and overtime pay standards. (Reg. 284).

The hours of work, overtime pay and public holidays exemptions explicitly cover most of the types of farming

listed in Table 1 and have been construed as applying to all of them. In some instances the scope of the industry and the exemptions may not be exactly the same, for example, landscape gardening does not appear under nurseries or elsewhere in the Standard Industrial Classification definition of agriculture. This and possibly other mismatches between the definition of agriculture used in this paper and the scope of the exemption tend to confirm the point made about the diversity of the industry and the difficulty of treating it as a unit for the regulation of employment conditions. The detailed outline of the exemptions given in the preceding paragraph seems already to have recognized the artificiality of basing the coverage of a work time standards on anything other than the need for worker protection arising from the various employment conditions that prevail within a firm, industry, type of farming or any other unit of organization.

Development

The exemption from maximum hours and paid vacation were put in place under the Hours of Work and Vacations with Pay Act in 1945. It applied to persons "employed in farming operations". Five years later this was reinforced by adding persons "employed in the culture of flowers, fruits and vegetables", the only major change made in farm worker coverage before the Employment Standards Act came into force at the beginning of 1969. Over the 24 years the earlier act was in effect, "the term farming operation was interpreted...so liberally that it embraced everyone who did anything to animals or anything that grew. For instance, it included persons engaged in the trimming of trees away from telephone and hydro lines." (Armstrong, 1974). Consequently, a serious effort was made to specify the exemptions more precisely.

Regulation 366/68, the first published under the Employment Standards Act, defined farming and excluded it from the coverage of the hours, overtime and vacation standards. A substantial number of farming and closely

related activities, for example, "egg grading", "greenhouse and nursery operations", and "mushroom growing", were explicitly excluded from the definition and were exempted only from the hours of work and overtime provisions of the Act. Perhaps unfortunately, the excluded activities became known unofficially as "near-farming." They resisted being covered by the standards and a period of extensive discussions between the industry, the Ministry of Agriculture and Food and the Ministry of Labour followed. The result of these was to ensure that the exemptions were available to recognized farming activities and were stated positively. Some branches of the industry gave considerable support to the application of well designed standards on grounds that they would improve its image as an employer. Also proposals were put forward for establishing agencies to define and monitor employment conditions appropriate to various farming enterprises. The outcome was moderate change in the existing arrangements to those set out in the first paragraph of this part, which are still in effect to-day. That is, all areas of farming were exempted from the hours, overtime and (new) public holidays standards but minimum wages and vacations with pay were required in the 7 farm types listed above.

Application of the exemptions has been relatively trouble free. Initially there were a number of tests of Employment Standards Branch interpretations by taking complaints to referees and the courts. These failed to establish major new principles of application. However, these actions clarified to some degree the wording "employed on a farm whose employment is directly related to the primary production of..." by finding that workers maintaining farm machinery come under the exemptions; that workers employed in a retail outlet associated with a farm but selling other than farm products do not; and that the egg-grading process may be part of the primary production of eggs. With respect to the latter case, Branch policy has been that the first processing of a farm product when performed on the farm where it was produced, for example, washing, grading, and bagging

potatoes, is considered to be part of that farming operation. If such work is done commercially, it is generally viewed as a separate non-agricultural business. There has not been a large number of challenges to Branch rulings on agricultural issues considering the complexity of the exemptions and fairly relaxed attitudes in the industry toward infringement of them.

Rationale

The development of the exemptions seems to have occurred without detailed analysis of the reasons given for requesting them. The variability of the weather, perishability of products, difficulty of recording hours of work on farms, and the lack of capacity of many farmers to meet the costs that would be imposed by the standards were central features of the rationale. Only limited effort was made to explore the seriousness of these constraints on different types of farming. However, there was recognition that employment conditions in some areas of farming are quite similar to those in offices and industrial plants while in others the conditions are markedly different from the industrial pattern. In part, it was this recognition that resulted in some farm work being exempt from the vacation pay and minimum wage standards while other areas of it are not.

Material prepared by the Employment Standards Branch shows that the conventional rationale for the exemptions has not changed significantly over the years although farming practices have (Ferlejowski, 1986). Earlier parts of this paper suggest that it is time to reassess arguments asserting the difficulty of scheduling farm work and perhaps to redesign the exemptions on the basis of today's technologies, controlled environments, and modified biological processes. It is likely that some farming activities are unnecessarily exempted from the standards and that the exemption continues to be needed by others.

The health and safety dimension of long hours of work on farms has been given high priority in arguments against the exemptions. Briefs presented at the 1984 and 1985 hearings of the Task Force on Health and Safety in Agriculture emphasized the problem of fatigue and the increased risk of accidents that accompanies it. Fatigue arises from the long duration of work, strenuous work, and work done in adverse environmental conditions and leads to impaired perception, inattention, and slow or incorrect response to work hazards. A worker stated his concern to that Task Force as follows:

A large portion of farm accidents occurs during harvest time when farmers are very busy, so busy, that often rest periods are not taken. During my vegetable harvesting employment, I have sometimes had only ten minutes off work in a twelve-hour day. This type of work environment wears a person's concentration level down to where accidents happen. (Reed, 1985)

The advocated response included legislative control of farm hours but there was recognition that to some degree long hours of work are necessary. With that in mind, the major thrust in presentations to that Task Force was considerate administration of workscheduling. In particular, the need for frequent and meaningful work breaks and regular eating periods was stressed. These positions were endorsed by farmers and farm organizations as well as worker representatives and advocacy groups.

Some recent experience in mushroom growing is relevant. In response to an unsatisfactory accident record, a major grower found that a disproportionate number of accidents occurred late in the day or shift. Regular hours of work were shortened and the accident experience improved. Farmers, who are smaller employers than mushroom growers, report similar action, preferring to work only so long as workers are alert and highly productive. The conclusion has to be that there is considerable awareness and caution among farmers and farm managers about adverse injury and health

experience associated with long hours but some are insensitive to the problem. The employee view of the matter is simply not available in any degree of detail.

OTHER JURISDICTIONS

This part of the paper outlines the extent to which 20 different jurisdictions intervene to limit the time worked on farms, and, where applicable, the means used to do this. The practices reported suggest practical alternatives to the comprehensive exemption of farm workers from Ontario's worktime standards and raise questions about how removing the exemption would affect the competitive position of the industry. The outline covers practices in all Canadian provinces, the federal and state jurisdictions in the United States, and 4 European countries and the European Economic Community.

The Provinces

Table 9 indicates broad agreement among the provinces that the traditional areas of livestock and crop farming most subject to biological and climatic constraints on time worked are the ones most in need of exemption from hours and related standards. Different wording and degree of detail in the statements that define the scope of the exemptions in the various laws leave some uncertainty about what types of farming, other than those mentioned in the preceding sentence, are exempt. British Columbia, Saskatchewan and Nova Scotia limit the scope by naming specific exclusions of activities that are marginal to agriculture or carried on in controlled environments. Ontario uses the same technique to include such activities under its exemption thereby raising a question as to whether the legislation is being used to protect employees or to advantage a particular type of farming.

Each of the 10 provinces exempts some or all hired farm workers from its overtime pay standard. Because of the relatively long hours consistently worked in some types of

farming, an overtime pay requirement would be expensive. Therefore, it becomes important to distinguish where long hours are really necessary and where they reflect inadequate staffing, and to target the application of the standard accordingly. The most interesting exemption to the general practice on overtime pay is in New Brunswick where farms employing 4 or more workers who are not family members are covered by the standard. The reason given for this is to protect family farms and to place the same demands on "commercial" farms as apply to other industries. The legislation has been in place for about two years and no serious administrative difficulties have arisen.

There is the least agreement among the provinces on extending the farm work exemption to paid holiday and vacation standards. Most jurisdictions exempt most farmworkers from paid public holidays, although British Columbia and Newfoundland do require paid holidays for most farmworkers, and Saskatchewan Ontario, Quebec and New Brunswick require this for select groups. Again the exemptions need to be directly related to specific employment situations not to the industry as a whole. If this basis for applying and not applying a standard is used there seems to be little reason for failing to grant all farm workers vacation pay but very sound ones for not allowing short term harvest workers time off on a public holiday that falls within their work season.

United States

Compared with Ontario there are few employment standards governing time worked in the United States. The federal Fair Labour Standards Act applies to both individuals and employers engaged in inter-state and foreign commerce, a scope of coverage that is very liberally interpreted. The Act provides for minimum wages, equal pay, overtime pay and the protection of child labour. It was put in place in 1938

Table 9
Application of Provincial Work Time Employment Standards
to Hired Farm Workers, 1987

Province	Definition of Farm Workers	Maximum Hours	Premium Pay After Defined Hours	Paid Holidays	Paid Vacations
Alberta	1. "Employees employed on a farm or ranch whose employment is directly related to the primary production of: eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, poultry, bees." ESA. s. 2(3)(c)	Exempt (from maximum of 12 hours per day)	Exempt	Exempt	Exempt
British Columbia	1. "Farm worker means a person employed in farming, ranching, orchard or agricultural operations, but does not include a person employed to process the products of these operations." ESA. Reg. s. 1(1)	None	Exempt	Covered except for workers employed to harvest fruit & berry crops)	Covered
Manitoba	2. "Horticultural worker does not include a landscape gardener or a person employed in a retail nursery." ESA. Reg. s. 1(1) 1. A person employed in agriculture, fishing, fur farming, or dairy farming or in the growing of horticultural or market garden products for sale. ESA. s. 2(1)(g)(ii)	None	Exempt	Exempt	NA
	2. The Vacation with Pay Act does not apply to "employers or employees who are engaged in agriculture, ranching or market gardening." S. 3(1)(b)				Exempt
New Brunswick	1. Persons employed on food producing farms that have 3 or fewer employees (exclusive of family members) over a substantial period of the year. ESA. s. 5	None	Exempt (3 or fewer employees)	Exempt (3 or fewer employees)	Exempt (3 or fewer employees)

Cont'd

Table 9 (Cont'd)
Application of Provincial Work Time Employment Standards
to Hired Farm Workers, 1987

Province	Definition of Farm Workers	Maximum Hours	Premium Pay After Defined Hours	Paid Holidays	Paid Vacation
New Brunswick (Cont'd)	2. Persons working on farms not producing food, on those producing food but employing 4 or more workers other than family members or 3 or fewer workers for less than a "substantial" period of the year.	None	Covered	Covered	Covered (if employed for more than 24 hours per week)
Newfoundland	1. All employees in agriculture	Covered (16 hours per day)	Exempt (Workers employed in production of fruit and vegetables in greenhouses, nurseries and livestock are covered)	Covered	Covered (if employed for 5 consecutive days or more)
Nova Scotia	1. "Persons engaged in work on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, maple products, honey, tobacco, pigs, cattle, sheep, poultry, or animal furs are exempt from..." LS Code, Reg. s. 2(3) 2. "Farm" does not include an agricultural establishment at or in which the primary production of flowers, fruit, grain, seeds, tobacco, or vegetables is carried on predominantly under cover."	None	Exempt	Exempt	Exempt

Cont'd

Table 9 (Cont'd)
Application of Provincial Work Time Employment Standards
to Hired Farm Workers, 1987

Province	Definition of Farm Workers	Maximum Hours	Premium Pay After Defined Hours	Paid Holidays	Paid Vacation
Ontario	1. Persons Employed "on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, maple products, honey, tobacco, pigs, cattle, sheep, poultry." Reg 285, s. 3(1)	Exempt (from maximum of 8 daily & 48 weekly)	Exempt	Exempt	Exempt
	2. Persons employed in: - landscape gardening. - mushroom growing. - growing flowers for retail and wholesale trade. - growing, transporting and laying sod, growing trees and shrubs for retail and wholesale trade. - breeding and boarding of horses on a farm. - fur farming.	Exempt (as above but covered for meal breaks ESA, s. 22)	Exempt	Exempt	Covered
	3. Persons employed on a farm to harvest fruit, vegetables or tobacco for marketing or storage.	Exempt (as in 1 above)	Exempt	Covered (if employed 13 weeks or more)	Covered (if employed 13 weeks or more)
Prince Edward Island	1. All "farm labourers." The Labour Act, s. 60(2)	None	Exempt	None	Exempt
Quebec	1. Workers employed on a farm with no more than 3 hired employees other than relatives	None	Exempt (3 or fewer employees)	Exempt (3 or fewer employees)	Exempt (3 or fewer employees)

Cont'd

Table 9 (Cont'd)
Application of Provincial Work Time Employment Standards
to Hired Farm Workers, 1987

Province	Definition of Farm Workers	Maximum Hours	Premium Pay After Defined Hours	Paid Holidays	Paid Vacation
Quebec (Cont'd)	2. Workers employed on a farm with 4 or more employees other than family members	None	Exempt (Sec. 54)	Covered	Covered (but not applicable to harvest workers)
Saskat- chevan	1. Persons employed primarily in farming, ranching or market gardening.	None	Exempt	Exempt	Exempt
	2. Persons employed in hatcheries, greenhouses, nurseries and bush clearing.	None	Covered	Covered	Covered

Source: The relevant provincial acts and regulations.

to protect the health and well being of workers and to spread the work available to more members of the labour force.

The vehicle for accomplishing the latter goal was a requirement to pay a premium rate of one and one-half times the regular one for hours worked in excess of 40 per week in all "covered employment." The standard remains the same today but there are many exemptions from it and "agricultural employees" is one of them. The result is that there is no regulation of farm hours of work for adult workers at the federal level in the United States and paid holidays and vacations are not required by law. The child labour provisions of the Act define ages and hours of employment in different circumstances relating to the presence of the parents on the same farm. Where this is the case children under 12 years of age may do harvest work.

Standards that are more restrictive than those of the Fair Labour Standards Act may be enacted at the state level but none of these require maximum hours of work or overtime pay for farm workers. Areas in which the states have taken initiatives include such matters as written terms of employment, statements of time worked and deductions on payment of wages, wage collection services including vacation pay, health inspections of labour camps, registration of farm labour contractors and, in 10 to 12 states, agricultural minimum wages. In other words there is even less control of time worked in agriculture in the United States than there is in Ontario and, because of the proximity of farm production the matter is a sensitive one with Ontario producers.³

England and Wales

There is no legislation defining hours of work and overtime pay requirements for most areas of employment in these countries. The strong tradition has been to allow such matters to be determined by collective bargaining.

In agriculture this tradition is followed but it is under the supervision of the Agricultural Wages Board. Farm workers formerly had an independent union but are now members of the Transport and General Workers' Union. Its representatives bargain directly with 8 farmer representatives and 4 independent members of the national bargaining committee. Almost invariably the union and farmer representatives fail to agree and the independent members end up arbitrating the settlements. They cover all the usual aspects of bargaining but are given the force of law by being incorporated in orders of the Agricultural Wages Board.

The orders define the weekly hours which may be worked before premium overtime rates are paid, fix premium rates and the paid vacation and holiday entitlements of agricultural workers. The conditions may vary for different classes of workers and under the Agricultural Wages Act inspectors may enter farms and obtain information from employers and employees on wages paid, hours worked and conditions of employment. This is done to ensure that the Wages Board Orders are observed.

At the present time the weekly hours that may be worked before overtime rates come into effect are 40 and the initial overtime rate is time and one-half. Higher rates may apply in defined circumstances, for example, unscheduled Sunday work.

Average actual hours have consistently been above the overtime trigger level. In 1985 the figure for "all hired men" was 46.9 hours, for youths 44.8 hours and for women and girls 42.7 hours. Dairy herdsmen have the longest hours averaging 50.5 per week in 1985 and the lowest average for adult male farm workers was 44.1 for those doing horticultural work.⁴

France

In France, hours of work, paid time off work and premium pay are regulated by the Labour Code (Code du Travail) and agricultural workers have the same status as others governed by it. The Code is flexible and recognizes special work requirements but not with respect to a specified category of workers.

Currently normal working hours are fixed at 39 per week. The next 8 hours must be paid at a premium rate of time and one-quarter and, hours in excess of that, at time and one-half the regular rate. An Act of December 27, 1975, limited weekly hours to a maximum of 52 hours in any given week and must average 48 or fewer over a 12-week period. Special permits may authorize work up to 60 hours a week in "exceptional circumstances." In addition, an act of July 13, 1906 limited employment to 6 days per week. The weekly rest period has to be 24 hours and preferably is taken on Sunday but to accommodate industries such as agriculture this is not a requirement. There is no legally required pay premium for Sunday work.

The Code now requires 5 weeks of paid vacation per year from the start of employment. This is up from 4 weeks made mandatory in 1969 and the benefit is available to agricultural workers as for others. Payment for vacation time earned in part-time employment is required on a proportional basis. In addition, persons who work overtime at physical work are given supplementary days of paid vacation to compensate for excessive fatigue. In 1979, this benefit was 20 per cent of hours worked in excess of 42 per week, for those with 3 years of employment. In contrast to the generous vacation arrangements France has only one legally defined paid holiday.

Federal Republic of Germany

The Work Time Act of 1938 is still in effect and establishes legal maximum hours of 8 per day and 48 per week. It covers a very large part of the German work force but farming, forestry, fishing, maritime commerce, and aviation (except for ground services) are exempt. In practice, weekly hours have been 40 or less for many years. A 1975 survey covering 18 million employees showed that 91 per cent had achieved such hours through collective bargaining. At the same time, the 8-hour daily maximum has not been consistently observed and 10-hour work days are common. However, a proposed new law that will apply to agriculture as well as other areas of work is presently (April 9, 1987) before the German parliament.

This law will continue the well-established practice of providing a basic framework of legislative standards and leaving much of the field of regulation to the collective bargaining system. Standard hours of work will be 8 per day, they may be extended to 10 but must not average more than 9 in any 3-month period. In addition, only 60 ten-hour days may be worked during a calendar year. In most employment, work will be prohibited on Sundays and recognized holidays except where emergencies occur and where the character of the enterprise demands continuous operation. For example, in farming there is no prohibition of Sunday work, but alternate days off are suggested, and at least one Sunday per month must be free time. The approach in the draft legislation seems to try to extend to farm workers a mix of conditions that compare favourably with those defined for other employment.

Within the legislated framework, the association of farm and forestry employers and the Agricultural Workers Union will determine schedules of weekly hours, overtime rates of pay, and vacations by means of collective bargaining. That is, overtime will be defined by law but the rate of

compensation for the hours worked is a matter of employer-employee agreement. Similarly a federal vacation law requires that all workers receive 18 working days of paid vacation each year. In practice, only one or two per cent of workers are given vacations of such limited duration because more generous allowances have been negotiated. However, with respect to all negotiated matters it is difficult to state a country wide practice. Even though the bargaining parties have national responsibilities, they negotiate wages and working conditions on a regional basis.⁶

Sweden

The Working Hours Act of 1983 set out a framework of standards governing working time in Sweden. The Act applies to the whole of the labour market other than young people under 18 years of age. No exemptions or special rules are made for farm employment but extensive room is provided for negotiated arrangements that respect and add detail to the provisions of the law.

The basic requirement of the Act is a 40-hour work week. However, employers have a right to demand that overtime be worked up to 48 hours per week during a 4-week period and to a total of 200 hours of overtime work in a calendar year. Emergency overtime is permitted to "be worked to the extent which conditions demand." The requirements outlined may be varied by collective agreements and the scheduling of hours within the standards and rates of overtime pay are determined in the same manner, that is, collective agreements may override the law in these particular situations. This provides some of the flexibility needed in farming operations but the arrangements made have to accommodate a legal requirement that every employee be given 36 consecutive hours of free time in every 7 days. The free time may not include stand-by hours and "as far as possible" will take place on week-ends. Such a requirement would bring about substantial changes in work schedules on Ontario farms.

In addition to defining hours of work rather closely, Swedish law provides for 5 weeks of paid vacation per year. Pay for this period is slightly higher than for time actually worked.⁷

The European Community

There is no legislation respecting time worked in agriculture at the Community level but two recommendations on the hours of permanent farm workers have been made to the member governments. The first of these, released in March 1978, applies to "agricultural and horticultural plant products excepting forestry" and the second, dated June 1980, refers to "the livestock section of agriculture." The recommendations were prepared for the Community by the European Federation of Agricultural Workers Unions (EFA.) and the Committee of Professional Agricultural Organizations in the European Communities (COPA), an employer organization.

The recommendations have much the same content and deal with normal working hours, guarantee working hours, overtime, rest periods, night work, and paid annual leave and holidays. The essence of the recommendations is for a 40-hour week, preferably of 5 days, in crop production. The important difference between the two statements arises because of the continuous operation of livestock farms where a 5-day week is not practical.

Material already presented shows that major members of the Community have adopted or are moving towards the recommended standards. Progress in this direction is confirmed by the report on the social situation of farm workers (Lojewski, 1985) which found that the recommendations have been "largely accepted in national wage negotiations" and that "four weeks paid holiday per year is a reality in all member states." Hours of work in 1984 averaged 45.9 per week, well above the target figure.⁸

CONCLUSION

In part because of the peculiarities of the agricultural industry, this report has been prepared from limited information. In particular, there is little information obtained directly from farmworkers (e.g., no systematic survey was conducted) or from farmers who employ less than one person-year of hired labour. Despite this limited information, some points emerge that throw light on the need for, and fairness of, the exemption of farm workers from the maximum hours and related worktime standards of the Employment Standards Act. Only conclusions that seem to have a good chance of being sustained by more thorough investigation are listed.

- o Work scheduling on farms is subject to major constraints that are not present or are relatively less important in other areas of employment, and these constraints, especially those deriving from climate, have very different impacts on production processes in different types of farming.
- o Severe price competition in most crop and livestock farming is more important to farmers than practical work scheduling problems as a reason for sustaining the exemption.
- o The dominant position of self-employed farmers in the farm workforce combines with the limited bargaining power (isolation, lack of skills, short term employment, acute need for work, communication problems, and other factors) of hired farm workers to restrict worker input into the determination of employment conditions and consequently raises questions about the fairness of the exemptions.
- o The difficulties farmers have in finding satisfactory Canadian workers, pressures to limit

the number of "off-shore" workers employed, and growing interest of farmers themselves in working shorter hours is focusing attention on better work planning, management of labour requirements, and recognition of worker needs, especially among medium sized and large farm employers.

- o A high proportion of seasonal farm workers, especially migrant workers, prefer to work very long hours but there is some concern among local people who do farm work that this willingness worsens employment conditions in the industry.
- o While hours of work are relatively long in agriculture, they vary greatly in length, in work intensity between the seasons, between different types of farming thereby raising questions about the severity of farm working conditions relative to those in other industries.
- o The principle concern of farmers with respect to any form of hours control is that they permit sufficient flexibility for dealing with urgent work situations.
- o While there are natural protective barriers to the importation of some farm products, most are subject to alternate sources of supply from other jurisdictions where there are no limits on hours of work and no premium pay and no requirements for time off with pay.

Users of the conclusions outlined should keep in mind that there is almost no direct farm labour input into the background on which they are based. Also, no farmers who employ less than one person-year of hired labour were consulted.

Means of Control

The material presented suggests that a case can be made for applying sharply targeted and well-designed worktime standards to some areas of agriculture but that comprehensive applications of a blunt single standard would almost certainly be disruptive to employers and employees.

As must be evident from the detailed statements of hours of work practices presented in this paper, a maximum-hour standard similar to the one currently in use in Ontario would not be practical in farming. The standard would continually have to be breached to get farm work done and the associated permit system would be troublesome and almost certainly meaningless in an industry organized in very small production units and where employment relationships are relatively informal. This issue was discussed with a few farmers and there can be little doubt that imposing maximum hours of 8 per day and 48 per week would draw forth a totally negative response. Every farmer contacted emphasized the need for extensive flexibility. Despite this there may be use for a maximum to restrict excessively long hours worked on a continuing basis, for example, in excess of 65 hours per week for more than one or two three week periods per year.

To permit farmers the flexibility in hours that they need and some farm workers appear to want, premium pay for time worked in excess of defined weekly hours seems to be the most suitable control. It was indicated on a few well managed farms that they could adjust to such an arrangement. The overtime "trigger" would have to be substantially higher than those presently defined in the Act. There is already some (but very limited) use of premium pay in the industry in Ontario and in other provinces but it is not a legal requirement in agriculture in the United States. The decision to impose the increased wage costs that overtime premiums entail would be, however, a serious burden to some

farms and in the present cost-price squeeze in agriculture would almost certainly put some farms out of business.

If use of overtime premiums is considered, they too should be tailored to exclude situations in which long hours of work are necessary for short periods of time and in those dictated by uncontrollable factors. Such premiums would be a useful deterrent to the continuing use of excessively long hours to complete ordinary production work in circumstances in which the employment of one or two additional workers would resolve the problem. It may also be necessary to take into consideration the type of work done in determining where overtime premiums would be appropriate. That is a milkman's 10-hour shift may be acceptable but the same may not be the case for mushroom pickers.

Time off in lieu of overtime and hours averaging arrangements are devices that could be useful in some farm situations. For example, the peak workloads in planting crops are usually short-lived and may be followed by a sharp drop in labour requirements. Either of these measures may be used to adjust the labour supply in such circumstances, but they would have to be worked out with reference to particular types of farming. They might not be appropriate where the work force is very lean (the usual situation) and fully occupied on a predetermined work schedule.

Paid time off for vacations is already wide spread for year-round farm workers. This acceptance of vacation pay and the logic for it suggests that it should be a top priority in reducing the scope of the farm exemption. Table 9 shows that it is already a fairly common practice in other provinces and is required in some types of farming in Ontario. Some farmers give it voluntarily to productive seasonal workers.

The case for paid holidays is less clear. It is difficult to schedule work around such events and the associated administration is relatively complex. Perhaps the

main point is that many farm workers are employed for short periods to do urgent work at times of the year when a number of holidays occur. To impose a holiday requirement in these circumstances may be somewhat contradictory.

There is real concern among farmers about the right-to-refuse overtime. The urgency issue already discussed underlies this. Apparently Canadian farm workers who have little attachment to their jobs already refuse to work overtime if they find it inconvenient to do so. On the other hand, those who have a serious stake in their jobs and the off-shore migrants are likely to accept overtime willingly because they are aware of the work patterns on farms and are interested in increasing their earnings. The right-to-refuse would seem to have real meaning only in those instances where farm employers are inconsiderate and, as already pointed out, there are some such farmers.

General Approach

The paper supports the view that revision of the exemption must take the need for flexibility of hours of work into account and makes a strong case against attempting to define one standard for all of agriculture. Because of the diversity of the industry doing so would create as many awkward or unfair situations as it would resolve. On the other hand there seems to be a case for carefully targeted standards relating to working time. These would totally exempt some types of farming and could be applied to others to ease working conditions where the constraints outlined in the beginning of the paper really do not apply or inconsiderate management practices occur.

If the argument of the above paragraph is accepted there are two practical alternatives for bringing about change. As mentioned the present study is illustrative, not a complete analysis. Such an analysis is practical and could form the basis of specific policy changes. A better approach might be to have a small panel of informed people work closely with a

farmers and employees of the various farm enterprises or groups of such enterprises to determine what standards if any are needed and how they should be applied.

SUMMARY

- o The purpose of the paper is to evaluate the exclusion of hired farm workers from the coverage of the maximum hours, overtime pay, and paid time off standards of Ontario's Employment Standards Act.
- o The paper is based primarily on information collected directly from farmers and others involved in agricultural work and is illustrative, rather than a complete analysis, of matters to be considered in extending worktime standards to farming.
- o Work scheduling on farms is subject to constraints imposed by the natural growth and behaviour patterns of animals and plants and, in many instances, the uncertainty of the weather, which render it impractical to confine the work to particular times in the day or week or to periods of predetermined duration. The interaction of these two constraints frequently results in great urgency to complete the work and consequently to work long hours.
- o Diverse production processes are associated with different types of farming and impose radically different worktime requirements. When two or more farm enterprises (types) are combined on one farm some periods in which very long hours of work are required are an almost inevitable outcome.
- o The very small employee size of most Ontario farms limits the farmer's freedom to manage time worked, but farmers who employ substantial numbers of hired workers are aware of, and make serious efforts to recognize,

their needs and to plan their work for full employment but not over-employment.

- o Rapid changes in farm production techniques have limited total farm labour requirements but have had varied impacts on hours worked. For example, the cost of machinery may dictate using it to full capacity, entailing long hours of work.
- o The necessity to cut costs overrides all other influences on farm work practices, and along with scarcity of qualified workers and added administrative work loads, prevents the employment of additional help to reduce hours worked on farms.
- o Although a growing component of the farm work force in Ontario, hired farm workers make up less than 40 per cent of total farm employment and in 1981 were on only 41 per cent of the census farms.
- o The total hired labour input into Ontario agriculture is almost equally divided between year-round and seasonal workers but the annual peak in employment, which normally occurs in August, is 2.5 to 3.0 times the seasonal low; which usually occurs in January.
- o Much of the seasonal work is for periods of 6 months or more but very heavy demand for seasonal workers occurs in August and September in conjunction with the harvesting of many major crops. Employment of these shorter term workers ranges from a few days to one to three months.
- o On farms employing hired labour the average employment is slightly under one person-year but a very few larger-sized agricultural employers have 50 to a few hundred workers on a year-round basis. The relatively large farm is more likely to have one to 3 year-round

workers and, if the operation is seasonal, to expand that number up to 10 times to meet peak work loads.

- o There is an uneven distribution of hired labour between different types of farms with year-round employment concentrated in livestock and indoor cultivation of crops, and seasonal employment in some field crops, fruit, and vegetable production. Some hired labour of both categories is found in every type of farming.
- o Year-round farm workers generally come from the local population or are fairly recent immigrants from Asia and southern Europe. Many stay in farming for long periods and assume extensive responsibility, but in areas or periods of tight labour markets attracting and holding such workers is a continuing problem.
- o Seasonal workers are found mainly through personal contacts but employment agencies assist in finding local labour and migrants from other parts of the country and from Mexico and the Caribbean Islands. The migrant workers, especially those from Mexico and the Caribbean, have very good work attitudes and stable employment. On the other hand, high turnover is a serious problem among domestic seasonal workers.
- o The average hours of full-time paid workers are 20 per cent greater than those for all industries. This is explained in part by the fact that 25 percent of full-time farm workers having actual hours of 60 or more per week.
- o The averages conceal many different hours-of-work and paid-time-off arrangements. In a sample of only 12 farms these varied from usual full-time hours of 49 to 80 per week and from 5 to 6 1/2 days. The use of premium pay was very limited, as was the payment for statutory holidays, but giving paid vacations to year-

round workers (and occasionally to seasonal workers) was more usual.

- o Farmers generally recognize and try to limit the long hours of work, but accept them as part of farm employment. The worker view is more complex with the stable year-round worker and some seasonal ones accepting the hours much as the farmer does. Some seasonal workers, especially the migrants, tend to favour, and sometimes request, long hours, but some employees (both seasonal and year-round) find the long hours unacceptable and look for other employment.
- o There is fairly wide acceptance of the hours-of-work arrangements on farms and, in light of existing wage rates, some outright support for them. What is not acceptable is inconsiderate treatment, unhealthy or demeaning working conditions, and simply taking advantage of workers who are not able to protect their own interests.
- o The exemption from the worktime standards is complete for workers engaged in traditional farming except that harvest workers qualify for paid holidays and vacations. In addition, 7 areas of farming are listed as being exempt from the maximum hours, overtime pay and paid holiday standards. They include: growing mushrooms, flowers, trees and shrubs; growing, transporting and laying sod; horse and fur bearing animal farming; and landscape gardening. Thus there is tacit recognition in the existing legislation that farming cannot be treated as a unit in determining the coverage of employment standards.
- o Lack of detailed study of the need for exemptions in some areas of agriculture and new practices and technologies strongly suggest that some farming activities are sheltered unnecessarily from the hours-

related standards and that protection continues to be needed in others.

- o Fatigue is an important safety consideration when working long hours.
- o All provinces other than Ontario also exempt hired farm workers from some of their worktime-related employment standards. However, exemption from the vacation and holiday standards is far from universal, and some have not extended coverage to areas of farming that clearly are not seriously subject to major biological and climatic constraints on working time.
- o The practice developed in New Brunswick and Quebec of differentiating between "family" and "commercial" farms with respect to the application of hours standards may be worthy of consideration.
- o The total lack of control of worktime on farms in the United States has to be kept in mind in determining Ontario practices.
- o The European approach of simply not exempting farm workers from hours-related legislation is a desirable goal but may be the result of a very different environment for the agricultural industry from the one found in North America. Movement toward the European pattern would need to be taken gradually and, as the Economic Community recommendations suggest, it needs to be done with all jurisdictions acting in unison if relative competitive positions are to be maintained.
- o The complexity of farming activities is such that comprehensive standards are unlikely to fit well and that any controls, especially those having to do with daily and weekly hours should be sharply targeted. Needed flexibility in worktime should not be impaired

but pressure should be exerted to restrict the continuing use of excessively long hours to carry out normal production work. The means of control selected would have to be compatible with the conditions outlined and, as discussed in the Conclusion, this could best be ensured by close consultation with the industry.

NOTES

1. The description of the Caribbean and Mexican migrant farm worker programs was compiled from interviews with officers of the Canada Employment and Immigration Commission; copies of the standard agreements entered into by employers and workers under these programs; and material presented in "Seasonal Labour in the Ontario Tobacco and Horticultural Industries", a report of the Joint Ontario Agricultural Human Resources Planning Committee, June 1986, Appendix 1, p. 69-70.
2. Comments on the coverage of the Labour Force Survey appear on page 19 of this paper.
3. Sources: "Labour Law Reporter, Federal Wages-Hours" (United States). Commerce Clearing House Inc., Chicago, Ill., v. 1, paragraphs 24,851-24,883 and 24900-24952; and conversations with officials of the United States Department of Labor responsible for administering the Fair Labor Standards Act and for monitoring state level labour standards.
4. Sources: A conversation with Martin Whitby, Department of Agricultural Economics, University of Newcastle-upon-Tyne, May 1987; "Earnings and Hours of Agricultural Workers in 1985" Employment Gazette, Department of Employment, HMSO, Norwich, England, July, 1986, v. 94, n. 6, p. 261-265; and Hepple and Fredman, "Great Britain", International Encyclopaedia of Labour Law and Industrial Relations, Kluwer, The Netherlands, 1986, v.5, p. 39-111.
5. Sources: A telex dated April 14, 1987 from the First Secretary, Commercial Affairs, Canadian Embassy, Paris; and Despax and Rojot, "France", International Encyclopaedia of Labour Law and Industrial Relations,

Kluwer, The Netherlands, 1986, v.6, Chapter III, p. 71-77.

6. Sources: A telex dated April 7, 1987 from the First Secretary (Commercial), Canadian Embassy, Bonn; a copy, supplied by the same, of draft hours of work legislation before the parliament of the Federal Republic of Germany; and Ramm, T. "Federal Republic of Germany", International Encyclopedia of Labour Law and Industrial Relations, Kluwer, The Netherlands, 1986, v.5, Chapter IV, p. 66-69.
7. Sources: A conversation with Henry Persson, Labour Counselor, Swedish Embassy, Washington; and "The New Swedish Working Hours Act", Ministry of Labour, Stockholm, Sweden, January, 1984.
8. Sources: A telex dated April 2, 1987 from the Mission of Canada to the European Communities, Brussels, Belgium; and recommendations from labour and management in Member States' agricultural sectors "on the harmonization of the hours of work of permanent workers in the arable sector of agriculture in the EEC" (1978) and "in the livestock sector of agriculture in the EC" (1980).

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